



BINDURA UNIVERSITY OF SCIENCE EDUCATION

**AN INTEGRATED MODEL FOR HARMONISING TRADITIONAL LEADERS'
COURTS WITH MODERN JUSTICE DELIVERY SYSTEM IN ZIMBABWE.**

A CASE OF KADOMA MAGISTRATE COURTS

BY

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B227573A

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DEGREE IN LEADERSHIP AND CORPORATE GOVERNANCE, GRADUATE
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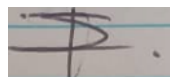
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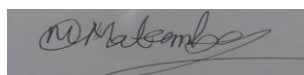


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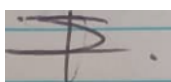
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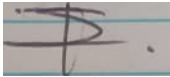
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DECLARATION

I, SHIRICHENA TARIRO AMANDA, affirm that this dissertation is an outcome of my personal inquiry and study, with exceptions duly acknowledged in the acknowledgments, bibliography, references, and annotations within the document. I confirm that this work has not been partially or entirely submitted for any other degree at any other academic institution.

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STUDENT SIGNATURE

DATE

DEDICATION

I would like to dedicate this research project to family, friends and relatives.

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I am immensely thankful for the exceptional guidance offered by Dr. Matambo, whose perceptive direction, constant assistance, and contagious passion were instrumental in shaping the course of this research project. Furthermore, I wish to convey my deepest gratitude to my family and close ones, whose steadfast backing, empathy, and motivation were unwavering throughout the trials and achievements of this academic voyage. I extend my genuine appreciation to the individuals who graciously contributed their priceless viewpoints and experiences, significantly enriching the breadth and quality of this investigation. Lastly, I recognize the invaluable assistance rendered by Bindura University of Science Education, which provided the essential infrastructure, resources, and amenities that facilitated the successful conclusion of this thesis.

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ABSTRACT

The main objective of the study was to develop an integrated model for harmonising traditional leaders' courts with the modern justice delivery system in Zimbabwe. The coexistence of traditional leaders' courts and the modern justice system in Zimbabwe presents significant challenges in harmonizing these two parallel structures. Despite the recognition of traditional leadership in the 2013 Constitution, conflicts often arise between these systems regarding jurisdiction, authority, and adherence to human rights principles. A qualitative study, guided by a pragmatic philosophy and case study research, was undertaken. A sample of 40 participants was taken. In-depth interviews, open-ended questionnaires, and an observation checklist were used as the research instruments. A response rate of 90% was obtained. The integration of traditional leaders' courts with modern justice delivery systems is not only feasible but also essential for improving access to justice in Zimbabwe. The findings indicate that both systems can coexist and complement each other if structured appropriately. By recognizing the strengths of traditional courts, such as their cultural relevance and community trust, while addressing their limitations through training and resources, a more cohesive legal framework can be established. Moreover, fostering collaboration between traditional leaders and modern judicial officials is crucial for ensuring that both systems work towards common goals. This integration can lead to enhanced legal literacy among traditional leaders and greater respect for customary practices within modern courts, ultimately benefiting the community as a whole. Taking into account the contributions of participants in the study, an integrated model was developed to harmonize traditional leaders' courts with the modern justice delivery system in Zimbabwe, fostering collaboration, transparency, and efficiency in legal proceedings. The study recommends amending existing legal frameworks to formally recognize the authority of traditional courts in specific types of cases.

Keywords: Traditional leaders' courts, Modern justice delivery system, Harmonization, Integration, Technological innovations, Justice system, Zimbabwe, Kadoma, Restorative justice and Access to justice.

CHAPTER ONE: INTRODUCTION

1.1 Introduction

The objective of the study is to develop a comprehensive model that integrates traditional leaders' courts with the modern justice delivery system in Zimbabwe. This introductory chapter introduces the study by presenting the research background, statement of the problem, the justification of the study, the research objectives, research questions, and significance of the study, the study limitations and delimitations, definition of key study terms.

1.2 Background to the study

The concurrent operation of traditional and modern justice systems is a pervasive global trend. As noted by the United Nations Office on Drugs and Crime (UNODC), numerous countries, particularly in Africa and Asia, have acknowledged the vital role of traditional justice systems in enhancing access to justice, especially for marginalized communities (UNODC, 2011). Nevertheless, the seamless integration of traditional justice systems with modern justice systems poses a formidable challenge. This research endeavors to enrich the international discourse on harmonizing traditional justice systems with modern justice systems.

In Africa, traditional justice systems serve as a vital conduit for promoting access to justice, especially in rural areas where modern justice systems are frequently out of reach. The African Union's Policy Framework on Traditional Justice underscores the significance of traditional justice systems as an intrinsic component of African legal systems, emphasizing the need for their recognition and respect (AU, 2016). However, the AU also notes that traditional justice systems often grapple with obstacles, including inadequate acknowledgment, insufficient resources, and limited operational capacity. This research seeks to enrich the ongoing African discourse on enhancing the efficacy of traditional justice systems and harmonizing them with modern justice systems.

In Southern Africa, traditional justice systems constitute an indispensable element of the region's legal framework. The Southern African Development Community (SADC) acknowledges traditional justice systems as a crucial component of the region's justice systems and is working to promote their recognition and integration with modern justice systems (SADC, 2012). In Zimbabwe, the focus of this study, traditional leaders' courts play a vital role in enhancing access to justice, particularly in rural areas. However, the integration of traditional

leaders' courts with the modern justice system remains a significant challenge, and this study aims to contribute to addressing this challenge.

The coexistence of traditional and modern justice systems in Zimbabwe poses a unique challenge and opportunity for improving access to justice. The 2013 Constitution of Zimbabwe formally recognizes the significance of traditional leadership, establishing a framework that enables these entities to function alongside contemporary state institutions (Constitution of Zimbabwe, 2013). Traditional leaders, including chiefs, headmen, and village heads, have traditionally served as the primary judicial authority in their communities, especially in rural regions where approximately 67% of the population resides (Chigwata, 2016). This acknowledgment underscores the significance of integrating traditional courts with the modern judicial system to ensure a more holistic approach to dispensing justice.

Throughout history, traditional leadership has played a central role in governance in Zimbabwe, tracing its origins back to pre-colonial eras when chiefs held significant judicial, administrative, and political powers (Sibanda, 2022). However, the imposition of Western legal frameworks during colonial rule disrupted these structures, often eroding the influence of traditional leaders. The colonial administration dismantled traditional governance systems, substituting them with state institutions that prioritized colonial interests over indigenous customs (Chigwata, 2016). Consequently, the relevance and authority of traditional leaders have been challenged, leading to disputes between traditional and modern judicial systems, particularly concerning jurisdiction and the extent of authority (Broodryk, 2004).

Despite these obstacles, traditional leaders persist in fulfilling a pivotal function in resolving conflicts and managing communities, especially in rural areas where the government's presence is scant (Masuka, Banda, & Mabvurira, 2012). The integration of technology into these traditional systems presents an opportunity for community empowerment and improved access to justice. By harnessing technological innovations, such as digital case management systems and mobile communication platforms, traditional courts can enhance their efficiency and effectiveness, thereby bridging the gap between customary and formal legal frameworks (Mawere & Mubaya, 2016).

This research seeks to develop a comprehensive model that integrates traditional leaders' courts with Zimbabwe's modern justice delivery system, with a focus on the Kadoma Provincial Magistrate Courts. By examining the interplay between these two systems, this study aims to identify obstacles hindering effective integration and propose strategies to enhance access to

justice for rural communities. Ultimately, this research aspires to contribute to the ongoing discourse on justice delivery in Zimbabwe, providing valuable insights that could lead to a more inclusive and effective legal framework that respects the country's cultural heritage while promoting adherence to contemporary legal standards.

The research uses the Kadoma Provincial Magistrate Courts as a central case study, functioning within a varied community that includes rural and urban areas. The Kadoma area accommodates a substantial number of traditional leaders, such as chiefs, headmen, and village heads, who hold crucial responsibilities in resolving disputes and governing the community (Kadoma District Development Fund, 2021). By concentrating on this unique setting, the study strives to offer a detailed comprehension of the obstacles and possibilities associated with aligning traditional leaders' courts with the contemporary justice system.

Moreover, the Kadoma Provincial Magistrate Courts have been at the forefront of technological innovation in the justice sector, implementing various digital tools and platforms to enhance efficiency and accessibility (Kadoma Provincial Magistrate Courts, 2020). This presents a unique opportunity to explore how technology can be leveraged to bridge the gap between traditional and modern judicial systems, empowering communities and promoting access to justice for all. For instance, technology can facilitate the use of digital platforms for justice delivery, as seen in other jurisdictions. Additionally, innovations such as video conferencing technology and justice apps can enhance the efficiency and accessibility of justice services.

1.3 Problem Statement

The coexistence of traditional leaders' courts and the modern justice system in Zimbabwe poses significant challenges in harmonizing these two parallel structures. Despite constitutional recognition, conflicts arise between these systems regarding jurisdiction, authority, and human rights principles (Chigwata, 2016; Sibanda, 2022). This tension undermines the effectiveness of both traditional courts and the formal justice system, particularly in rural areas where traditional leaders are the primary judicial authority (Masuka, Banda, & Mabvurira, 2012). The limited jurisdiction of traditional courts exacerbates the problem. Traditional chiefs handle civil matters only, with no authority over criminal cases (Sibanda, 2022). This compromises access to justice for most Zimbabweans, as traditional courts have jurisdiction over approximately 75% of the population in rural areas (Sibanda, 2022). The formal justice system lacks resources and infrastructure to serve these communities effectively (Broodryk, 2004).

The perceived association of traditional leaders with the governing party has elicited scrutiny regarding their significance and credibility in a contemporary, democratic society (Chigwata, 2016). Some traditional leaders' conduct, including human rights abuses and dictatorial approaches, has undermined their role in supporting vulnerable children (Broodryk, 2004; Masuka, Banda, & Mabvurira, 2012). Tackling these challenges demands a holistic strategy that acknowledges the merits of both traditional and modern justice systems while advocating for human rights principles and good governance. Technological innovations can bridge the gap between these systems, enhancing efficiency and empowering communities (Mawere & Mubaya, 2016). However, successful integration necessitates understanding cultural, social, and political dynamics and active stakeholder involvement.

1.4. Research objectives

The research is steered by the subsequent objectives:

- 1.4.1. To analyse the existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma.
- 1.4.2. To investigate the perceptions and attitudes of community members towards both traditional and modern justice systems.
- 1.4.3. To identify and examine the barriers that hinder the effective integration of traditional leaders' courts with the modern justice system.
- 1.4.4. To explore how technological innovations can be utilized to enhance communication, efficiency, and transparency between traditional courts and the modern justice systems.
- 1.4.5. To develop and propose an integrated model that harmonizes the functions of traditional leaders' courts and the modern justice delivery system.

1.5 Research questions

The research aims to address the following inquiries:

- 1.5.1. What is the current relationship between traditional leaders' courts and the modern justice delivery system in Kadoma?
- 1.5.2. How do community members in Kadoma perceive the accessibility, fairness, and effectiveness of traditional leaders' courts and the modern justice system?

1.5.3. What are the key legal, cultural, and infrastructural barriers that hinder the effective integration of traditional leaders' courts with the modern justice system in Kadoma?

1.5.4. What technological innovations have been implemented or have the potential to enhance communication, efficiency, and transparency between traditional courts and the modern justice system in Kadoma?

1.5.5. What are the key elements and principles that should guide the development of an integrated model for harmonizing traditional leaders' courts with the modern justice delivery system in Kadoma?

1.6 Justification of the study

Integrating traditional leaders' courts with Zimbabwe's contemporary justice delivery system is vital for improving access to justice, especially for rural communities where traditional leadership frameworks are prevalent. Roughly 67% of Zimbabwe's population dwells in rural regions, where traditional leaders assume the principal judicial role (Chigwata, 2016). Despite constitutional recognition, significant barriers persist, including limited jurisdiction and conflicts with modern judicial structures (Sibanda, 2022). This study aims to address these barriers and explore how harmonizing these systems can improve justice delivery for the majority of the population.

The current literature underscores the pivotal function traditional leaders undertake in conflict resolution and community governance. Traditional courts frequently offer a more accessible and culturally appropriate pathway for justice, particularly in areas where formal legal establishments are scarce (Masuka, Banda, & Mabvurira, 2012). However, the disjunction between traditional and modern systems has led to inconsistencies in justice delivery, disproportionately affecting vulnerable populations, particularly women and children (Broodryk, 2004). By developing an integrated model that leverages the strengths of both systems, this research aims to create a more inclusive framework that respects cultural practices while promoting adherence to contemporary legal standards.

Technological innovation holds the potential to improve the efficiency and effectiveness of both traditional and modern justice systems. Integrating technology can facilitate better communication, streamline processes, and empower communities to engage actively in the justice system (Mawere & Mubaya, 2016). This study will explore how such innovations can

be harnessed to bridge the gap between traditional and modern judicial frameworks, ultimately contributing to community empowerment and improved access to justice.

This study has broader implications for governance and social cohesion in Zimbabwe. By fostering collaboration between traditional leaders and modern judicial authorities, the proposed integrated model can enhance trust in the justice system and promote a sense of community ownership over legal processes. This is particularly important in a country where historical grievances and political tensions have often undermined social cohesion. An integrated approach can serve as a platform for dialogue and mutual respect, thereby contributing to a more stable and harmonious society.

The findings of this research will be valuable for policymakers and practitioners in the field of justice delivery. By providing empirical evidence on the effectiveness of integrating traditional and modern systems, this study can inform the development of policies that promote a more holistic approach to justice. Such policies can enhance the capacity of both traditional leaders and modern judicial officials to work collaboratively, ultimately leading to more equitable and effective justice outcomes.

Finally, this study will contribute to the academic discourse on justice delivery and traditional leadership in Zimbabwe and beyond. By examining the interplay between traditional and modern systems, this research will fill a critical gap in the literature, offering insights that can be applied in other contexts where similar dynamics exist.

1.7 Purpose of the Study

The primary purpose of this study is to develop an integrated model for harmonizing traditional leaders' courts with the modern justice delivery system in Zimbabwe, specifically focusing on the Kadoma Provincial Magistrate Courts. This integration is essential for enhancing access to justice, particularly for rural communities where traditional leadership structures are predominant. By examining the dynamics between these two systems, the study aims to identify barriers to effective integration and propose actionable strategies that leverage the strengths of both traditional and modern judicial frameworks.

1.8 Assumptions

Assumptions are assertions acknowledged as valid without requiring evidence, serving as the underpinning of the research investigation (Creswell, 2014, p. 83). The study operates based on the subsequent assumptions:

- The study posits that the incorporation of technology into the justice delivery system holds promise in notably improving the efficiency, accessibility, and efficacy of both traditional leaders' courts and contemporary judicial systems in Zimbabwe.
- It is also assumed that there are identifiable barriers that hinder the effective integration of traditional leaders' courts with the modern justice system.
- Additionally, it is assumed that harmonizing of traditional and modern justice systems will empower communities and that access to culturally relevant and effective conflict resolution mechanisms is fundamental to social cohesion and individual well-being.
- Furthermore, it is presupposed that the current legal structure in Zimbabwe permits the fusion of traditional and contemporary justice systems.

1.9 Limitations of the Study

Limitations refer to the conceivable imperfections or shortcomings in the research study that could influence the precision, comprehensiveness, or relevance of the outcomes (Sekaran, 2003, p. 152). The researcher recognizes the subsequent limitations:

Potential Bias in Data Collection

This study primarily relies on qualitative data gathered through interviews and surveys conducted with traditional leaders, community members, and modern judicial officials. A potential limitation of this approach is the risk of biased responses, as participants may be reluctant to share negative experiences or opinions, especially concerning traditional leaders. To address this limitation, the researcher will guarantee the confidentiality and anonymity of participants' responses and employ triangulation methods to verify the accuracy of the collected data.

Potential Resistance to Change

Harmonizing traditional and modern justice systems may face resistance from stakeholders who are comfortable with the status quo or have vested interests in maintaining the separation between the two systems. This resistance could limit the effectiveness of the proposed integrated model. To address this limitation, the researcher will engage in extensive stakeholder consultations and sensitization workshops to raise awareness about the benefits of integrating traditional and modern justice systems.

Limited Technological Adoption

The research presupposes that community members will be open to incorporating technology into judicial procedures. Nonetheless, challenges such as restricted technology access and digital literacy levels in rural regions could impede the effective adoption of technological advancements. To address this constraint, the researcher plans to conduct a comprehensive needs evaluation to assess the community's technological capabilities and requirements. Additionally, training and assistance will be offered to enable community members to proficiently utilize the proposed technological enhancements.

Potential Power Imbalances

Traditional leaders frequently wield substantial influence and power within their communities. The research might not fully tackle the potential power differentials between traditional leaders and community members, especially marginalized demographics like women and youth. To counter this constraint, the researcher will guarantee that the study's sampling structure encompasses a diverse representation of marginalized groups. Additionally, the researcher will employ tactful and inclusive data collection techniques to reduce the likelihood of power dynamics impacting the gathered data.

Cultural Sensitivity

The study may encounter challenges related to cultural sensitivity when addressing the roles and practices of traditional leaders. Some community members may perceive the research as an intrusion into their cultural practices, leading to reluctance in participating or sharing honest opinions. To address this constraint, the researcher will collaborate closely with local community leaders and elders to guarantee that the study is carried out in a culturally considerate and respectful approach. Furthermore, the researcher will seek the essential permissions and endorsements from traditional leaders and community members prior to commencing the research.

1.10 Delimitation of The Study

1.10.1 Geographical Focus

The study will concentrate on the Kadoma Provincial Magistrate Courts, which may not offer a comprehensive representation of the interactions between traditional and modern justice systems throughout all regions of Zimbabwe. The conclusions drawn from this study may possess restricted applicability to other regions with diverse cultural and socio-economic backgrounds.

1.10.2 Scope of Traditional Courts

The research will primarily focus on analyzing the functions and significance of traditional leaders' courts, as they serve as the primary channels for conflict resolution in rural settings. Nonetheless, it will not explore the intricacies of alternative traditional dispute resolution mechanisms outside the formal judicial structure.

1.10.3 Stakeholder Representation

Although the study intends to gather insights from diverse stakeholders, including traditional leaders, community members, and contemporary judicial officials, it may not encompass the perspectives of every individual within these categories. The conclusions will be drawn from a subset of participants, which may not be exhaustive.

1.10.4 Time Frame

The research will be carried out within a specific time frame, potentially restricting the depth of investigation into the historical background and progression of the interplay between traditional and modern justice systems. While comprehending the historical dynamics is essential for contextualizing current norms and attitudes, the study's breadth will be constrained by time and resource constraints.

1.10.5 Data Collection Methods

The study will primarily utilize qualitative data acquired through interviews and surveys. Although this method allows for a more profound comprehension of stakeholder viewpoints, it may be susceptible to limitations such as potential bias, social desirability bias, and the challenge of generalizing findings to a broader audience.

1.10.5 Technological Focus

The study will explore the potential of technological innovations to enhance the efficiency and effectiveness of both traditional and modern justice systems. However, it will not provide an exhaustive analysis of all available technologies or their specific applications within the justice sector.

These delimitations highlight the boundaries and constraints within which the study will operate, ensuring that the research objectives are achievable within the given time and resource constraints. By acknowledging these delimitations, the study can provide a focused and

meaningful contribution to the understanding of harmonizing traditional leaders' courts with the modern justice delivery system in Zimbabwe.

1.11 Dissertation Structure

The dissertation will be structured in the following manner:

Chapter One: Introduction and Context

This section initiates the study by outlining the research context, problem statement, and rationale for the study, research aims, and research inquiries, importance of the study, study restrictions, and definitions of key terms.

Chapter Two: Review of Existing Literature

This chapter encompasses the theoretical underpinning, empirical examination of relevant literature, conceptual framework, and identification of research gaps that inspire the study.

Chapter Three: Methodology

This chapter details the research plan, target demographic, sample size, sampling methodologies, data collection strategies, validity and reliability of research tools, as well as the approaches for data analysis and presentation.

Chapter 4: Presentation, Interpretation, and Discussion of Findings

This section delves into the analysis and interpretation of data obtained from primary and secondary sources.

Chapter 5: Recap, Conclusions, and Suggestions

The final chapter provides a summary of the entire project, conclusions drawn from the study, and recommendations for future research.

1.12. Chapter Summary

The chapter serves as the foundation for the study on developing an integrated model for harmonizing traditional leaders' courts with the modern justice delivery system in Zimbabwe, specifically focusing on the Kadoma Provincial Magistrate Courts. The chapter discussed the background of the problem, statement of problem, objectives of the study, research questions, significance of the study, limitations of the study, delimitations of the study, definition of terms of the study, before a chapter summary. The following chapter comprises of the literature

review in relation to harmonising traditional leaders' courts with modern justice delivery system

CHAPTER 2

LITERATURE REVIEW

2.0. Introduction

This chapter discusses the theoretical and conceptual issues underpinning the study. It also reveals literature relevant to the objectives being interrogated in this study. Additionally, key empirical findings from prior research endeavours using the funnel approach will be provided to pinpoint potential gaps necessitating focused attention within Kadoma. All this will enable development and proposal of an integrated model that harmonizes the functions of traditional leaders' courts and the modern justice delivery system.

2.1. Theoretical framework

According to Creswell (2019:102), a theoretical framework is "a structure that helps the researcher identify and understand the key variables in the study and their relationships to each other and to the phenomenon being investigated." Ragin and Amoroso (2019:63) define a theoretical framework as "a logical structure of interconnected concepts and propositions that guide the researcher in formulating hypotheses or research questions, collecting and analyzing data, and interpreting findings." This study will be guided by the Legal Pluralism and Restorative Justice theories.

2.2.1. Legal Pluralism

Legal Pluralism asserts that various legal structures live inside a solitary shared field. This theory recognizes the legitimacy of both customary law and formal legal structures, allowing for a more inclusive approach to justice (Merry, 1988). In countries like Nigeria and Kenya, legal pluralism is evident as traditional courts operate alongside formal magistrate courts, each serving distinct roles in community governance. The coexistence of these systems reflects the diverse cultural landscape of these nations, where customary practices continue to play a vital role in the lives of many citizens (Ige, 2015). Legal pluralism not only acknowledges the existence of multiple legal frameworks but also emphasizes the need for their interaction and potential integration. Scholars like Griffiths (1986) argue that legal pluralism can improve access to justice by offering individuals choices that resonate with their cultural values and social contexts. This perspective is particularly relevant in Nigeria, where traditional courts are often perceived as more accessible and culturally relevant compared to formal judicial institutions (Roberts & Palmer, 2016).

The integration of traditional leaders' courts with modern justice delivery systems in countries like Nigeria and Kenya presents a unique opportunity to improve right to fairness for defenseless people. Traditional courts, often presided over by chiefs and elders, have historically played a significant role in dispute resolution within rural communities. This literature review examines the theoretical and conceptual frameworks surrounding this integration, the relationship between the two systems, public perceptions, and the challenges faced in harmonizing these judicial structures. In Nigeria, traditional courts operate alongside formal judicial systems, leading to questions about their effectiveness and relevance in contemporary society. Understanding this dynamic is crucial for developing an integrated model that respects cultural practices while ensuring adherence to modern legal standards.

This literature review will explore various dimensions of the relationship between customary and present justice structures, including theoretical underpinnings, public attitudes, barriers to integration, and potential technological innovations that could facilitate a more cohesive approach. By synthesizing existing research and perspectives, this review aims to offer a inclusive appreciation of the intricacies involved in harmonizing these two judicial frameworks. The significance of incorporating customary and contemporary justice systems is further underscored by the need for inclusive governance that reflects the diverse cultural contexts of African societies. Traditional courts are often seen as more accessible and culturally relevant by rural populations who may distrust formal legal institutions due to perceptions of elitism or corruption (USAID, 2016). The informal nature of traditional courts allows for greater community participation and quicker resolution of disputes, aligning with local customs and social norms.

In many African countries, traditional courts operate alongside modern judicial systems, leading to questions about their effectiveness and relevance in contemporary society. Understanding this dynamic is crucial for developing an integrated model that respects cultural practices while ensuring adherence to modern legal standards. This literature review will explore various dimensions of the relationship between customary and contemporary justice schemes, including theoretical underpinnings, public attitudes, barriers to integration, and potential technological innovations that could facilitate a more cohesive approach. By synthesizing existing research and perspectives, this review aims to provide a complete appreciation of the intricacies involved in harmonizing these two judicial frameworks.

By recognizing the legitimacy of both systems, an integrated model can facilitate a more comprehensive approach to dispute resolution that respects local customs while ensuring adherence to constitutional principles. Recognizing the complexities of legal pluralism is essential for effective legal or policy interventions, including state-building initiatives. Failing to consider the unique dynamics of legal pluralism in each context risks rendering interventions ineffective. Even seemingly successful initiatives may ultimately prove unsustainable, as their short-term gains are likely the result of chance rather than informed decision-making (Swenson, Geoffrey, 2018).

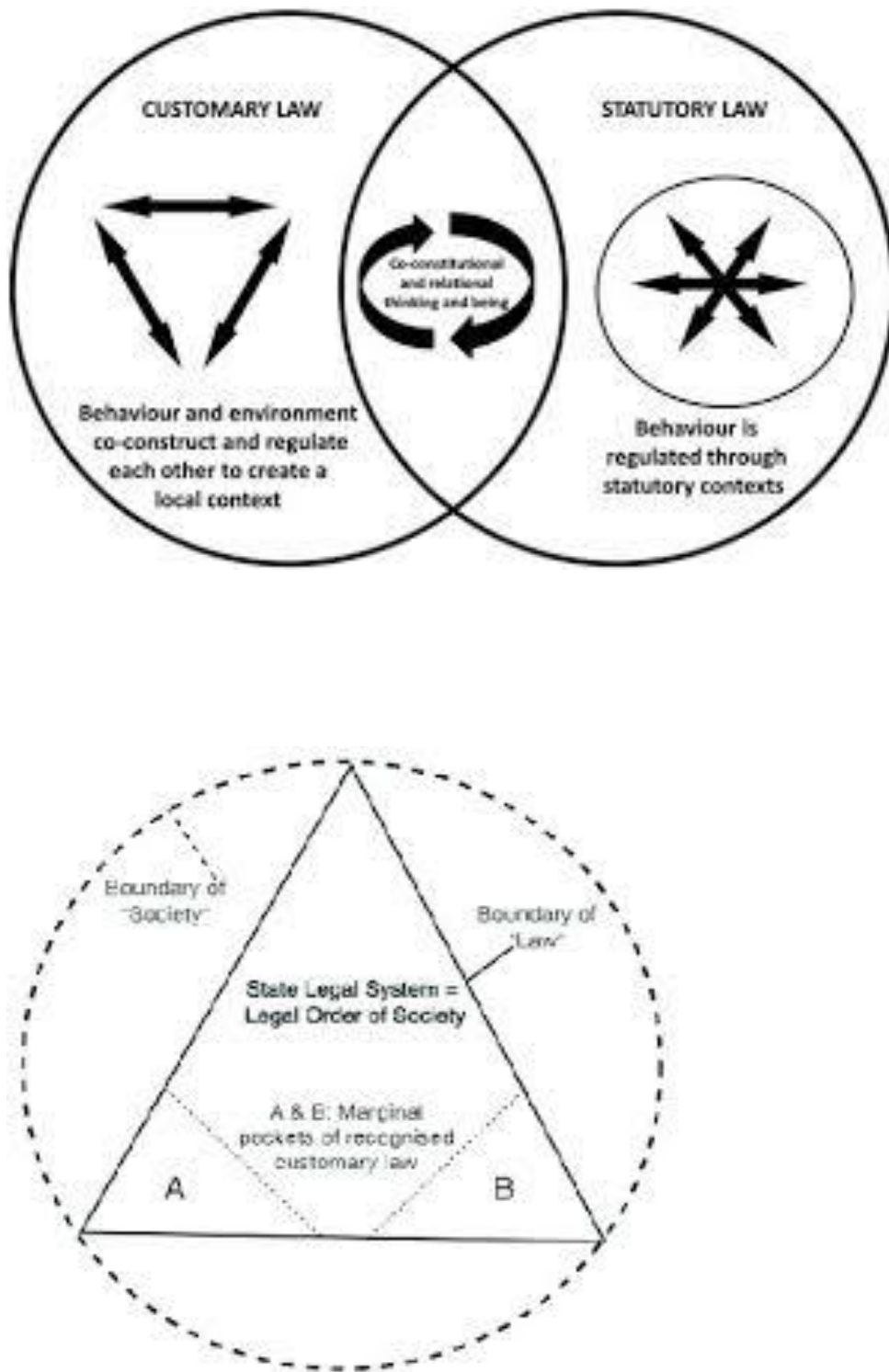


Figure 2.1. Legal pluralism principles

Source: Milovanovic (2011).

The theory of legal pluralism examines the tensions that arise between different legal systems, such as those between state and non-state laws, or between international law and domestic laws. This theory proposes various models for resolving these tensions. Examples of such

tensions are abundant and can be observed in numerous regions, including Africa, North America, Latin America, and Australia (Bunikowski 2014).

Legal Pluralism in Australia

In Australia, a notable example of this phenomenon is the recognition of Indigenous customary law alongside Australian statutory law. The interaction between these legal frameworks presents both opportunities and challenges for achieving justice and equity, particularly for Aboriginal and Torres Strait Islander communities. The origins of legal pluralism in Australia date back to the arrival of European settlers, which led to the marginalization of Indigenous legal systems. Prior to colonization, Aboriginal and Torres Strait Islander peoples had complex legal traditions governing social relations, land use, and conflict resolution. However, the imposition of British law effectively disregarded these systems, resulting in significant injustices and loss of cultural heritage (Maddock, 1994).

In the modern era, there has been an increasing acknowledgment of the significance of Indigenous law within the Australian legal system. Notable legal precedents, like the *Mabo v Queensland (No 2)* case in 1992, have affirmed the presence of native title rights, validating Indigenous communities' rightful entitlements to land rooted in their customary practices and traditions. This validation has set the stage for a more encompassing method to governance and the dispensation of justice that honors Indigenous legal customs.

Today, legal pluralism in Australia is characterized by the coexistence of statutory law, common law, and Indigenous customary law. While Australian law remains dominant, there are increasing efforts to incorporate Indigenous perspectives into formal legal processes. For instance, some jurisdictions have established Indigenous sentencing courts that allow for culturally appropriate approaches to justice (Blagg et al., 2018). These judicial bodies strive to mitigate the disproportionate representation of Indigenous Australians in the criminal justice system by integrating traditional methodologies and community engagement into the process of making sentencing judgments. However, challenges persist regarding the effective integration of Indigenous law into mainstream legal systems. Issues such as cultural misunderstandings, lack of resources, and systemic biases can hinder the implementation of culturally relevant practices (Harris & Milroy, 2019). Moreover, there is ongoing debate about how best to balance respect for Indigenous sovereignty with adherence to national legal standards.

To foster trust and mutual respect, collaborative initiatives involving Indigenous communities in decision-making processes are crucial (Bennett et al., 2020). Furthermore, training programs for legal practitioners on Indigenous culture and law can enhance their ability to navigate cases involving multiple legal frameworks. By equipping lawyers and judges with cultural competence skills, the justice system can become more inclusive and responsive to the needs of Aboriginal and Torres Strait Islander peoples. In essence, legal pluralism in Australia embodies a complex interplay between historical injustices and contemporary reconciliation efforts. By acknowledging the legitimacy of multiple legal systems within a single jurisdiction, Australia can strive to create a more equitable justice system that respects cultural diversity while promoting human rights for all individuals.

2.2.1.2. Legal Pluralism in South Africa

Legal pluralism significantly influences the legal environment of South Africa, largely due to the country's diverse cultural heritage and complex history. The post-apartheid Constitution acknowledges customary law as a vital component of the legal system, allowing it to coexist with statutory law. This dual legal framework presents both opportunities and challenges in achieving justice and equity for all citizens. The origins of legal pluralism in South Africa date back to the colonial era, when indigenous legal systems were often marginalized or suppressed by colonial authorities. However, with the transition to democracy in 1994, efforts were made to recognize and incorporate customary law into the formal legal framework. The Constitution of South Africa (1996) explicitly recognizes the role of customary law, provided it does not conflict with the Bill of Rights. This recognition has led to a more inclusive approach to governance and justice delivery, allowing communities to resolve disputes according to their cultural norms while still adhering to constitutional principles. In contemporary South Africa, legal pluralism manifests in various forms, including traditional courts that operate under customary law. These courts are often more accessible to rural populations and are perceived as culturally relevant due to their alignment with local customs and practices. Research indicates that many community members prefer traditional courts for their informal nature and quicker resolution times compared to formal judicial processes (Roberts & Palmer, 2016).

However, challenges remain regarding the consistency and fairness of decisions made by traditional leaders, who may lack formal legal training. Moreover, there is an ongoing debate about the integration of customary law into the broader legal system. While some argue that this integration enhances access to justice and respects cultural diversity, others raise concerns

about potential human rights violations within traditional practices (Matsika & Chikwanje, 2020). For instance, issues related to gender equality often arise in discussions about customary law, as certain practices may not align with constitutional guarantees of equal rights.

The Legal Pluralism theory provides a relevant framework for understanding the relationship between traditional leaders' courts and the modern justice delivery system in Kadoma. This theory acknowledges that traditional justice systems, such as those administered by traditional leaders' courts, can coexist alongside modern justice systems, and that individuals may navigate multiple legal systems to access justice (von Benda-Beckmann, 1981). The study's objective of developing an integrated model that harmonizes the functions of traditional leaders' courts and the modern justice delivery system aligns with the principles of Legal Pluralism, which seeks to promote the recognition and coordination of multiple legal systems to enhance access to justice.

2.2.2. Restorative Justice Theory

Restorative Justice Theory focuses on repairing the harm caused by criminal behavior through inclusive processes that involve all stakeholders (Zehr, 2002). This approach prioritizes healing and restoration over retribution and punishment, acknowledging that crime disrupts community relationships. By engaging victims, offenders, and community members in the resolution process, restorative justice facilitates a dialogue that fosters understanding, accountability, and empathy. This inclusive framework allows for exploring the underlying causes of conflict, enabling all parties to express their feelings and perspectives. This engagement empowers victims by giving them a voice in the justice process and encourages offenders to take responsibility for their actions, understanding the impact of their behaviour on others.

Traditional courts in countries like Nigeria and Kenya often embody restorative justice principles by prioritizing reconciliation over punitive measures. These courts typically operate within a communal context where social harmony is highly valued. Traditional leaders, such as chiefs and elders, facilitate discussions that aim to restore relationships and mend social fabric rather than impose harsh penalties (Ndulo, 2011). For instance, when resolving disputes, traditional courts may encourage offenders to make amends through community service or compensation to victims, thereby fostering a sense of responsibility and community involvement. This approach aligns with the cultural norms of many African communities, where collective well-being is prioritized over individual punishment. By integrating these restorative practices into formal justice systems, there is potential to create a more holistic

approach that addresses not only the immediate harm but also the broader social dynamics at play. Furthermore, embracing restorative justice within traditional courts can significantly enhance community cohesion and address underlying social issues that contribute to conflict. When communities actively participate in resolving disputes, they reinforce social bonds and collective identity, which are essential for maintaining peace and stability (Roberts & Palmer, 2016). Restorative processes can lead to transformative outcomes by facilitating healing among victims and fostering empathy among offenders. Additionally, addressing root causes of conflict such as poverty, inequality, and historical grievances can help prevent future disputes from arising. By focusing on restoration rather than punishment, traditional courts can play a pivotal role in promoting long-term social harmony and resilience within communities. This alignment with restorative justice principles not only enhances the effectiveness of traditional courts but also contributes to a more equitable and just society overall.

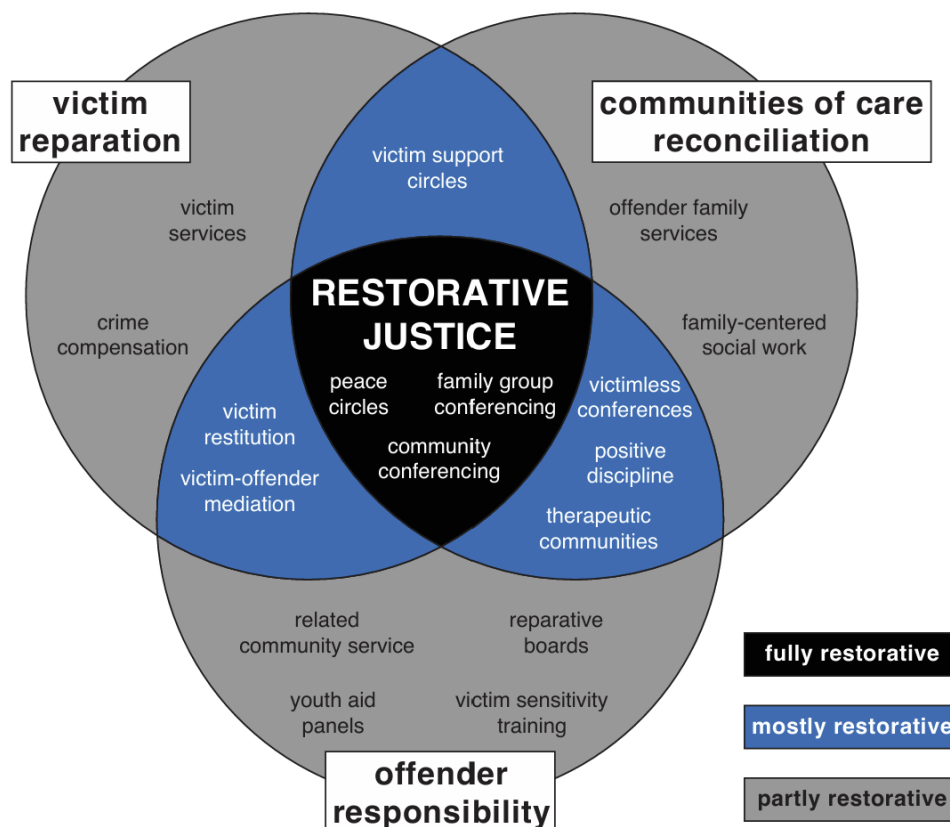


Figure 2.2. Restorative Justice Typology

Source: Robinson & Hudson. (2015).

Restorative justice involves victims, offenders, and communities collaborating to determine the best ways to mend the harm caused by an offense (Moyo, 2015). Each of these key stakeholders has unique needs: victims seek restitution, offenders must acknowledge

responsibility, and communities strive for reconciliation (Kagiso, 2018). The depth of meaningful emotional interaction and decision-making among these parties dictates the level of restorative value in a social disciplinary approach (Nkosi, 2019). The process of interaction itself is pivotal in addressing the emotional requirements of stakeholders (Dlamini, 2020). Meaningful emotional exchange necessitates the active involvement of all three primary stakeholders (Chimwe, 2017). The most successful restorative procedures entail the full participation of victims, offenders, and their respective communities (Zulu, 2016).

When criminal justice methods only involve one group of primary stakeholders, such as compensating victims or assigning community service to offenders, the process remains only partially restorative (Gumbo, 2018). Procedures like victim-offender mediation, which engage two primary stakeholders while excluding their communities, are predominantly restorative (Mhlanga, 2017). A fully restorative process is only achieved when all three primary stakeholders actively participate, as seen in conferences or circles (Moyo, 2015).

Restorative practice originated from restorative justice, which emerged in the late 1990s and early 2000s to revolutionize responses to crime and misconduct by shifting the emphasis from punishment to repairing relationships and addressing harm (Sibanda, 2016). With time, restorative practice has broadened its scope to manage not only isolated incidents but also to offer a holistic approach to addressing harm and fostering accountability (Makoni, 2019). Presently, restorative practice is implemented in various contexts, including the criminal justice sector, education, child welfare services, workplaces, medical facilities, and community organizations, to handle internal complaints and offenses (Ncube, 2020). The fundamental tenet of restorative practice is that conflicting parties should actively participate in resolving disputes and alleviating their adverse effects (Chisale, 2018). This method involves the victim, offender, their support networks, institutions, and the wider community in addressing misconduct and cultivating healing and accountability (Dube, 2017)..

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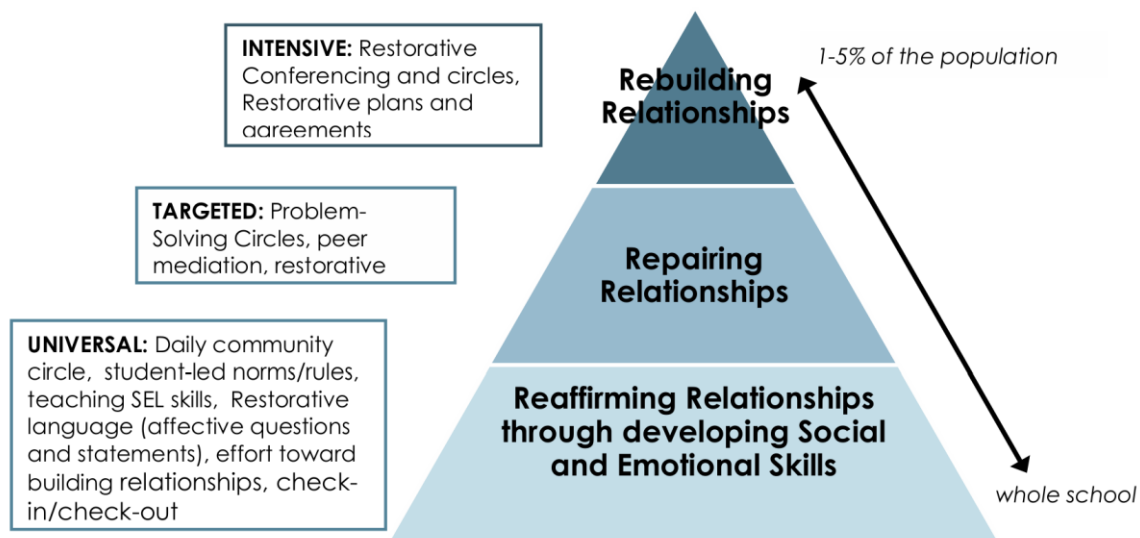
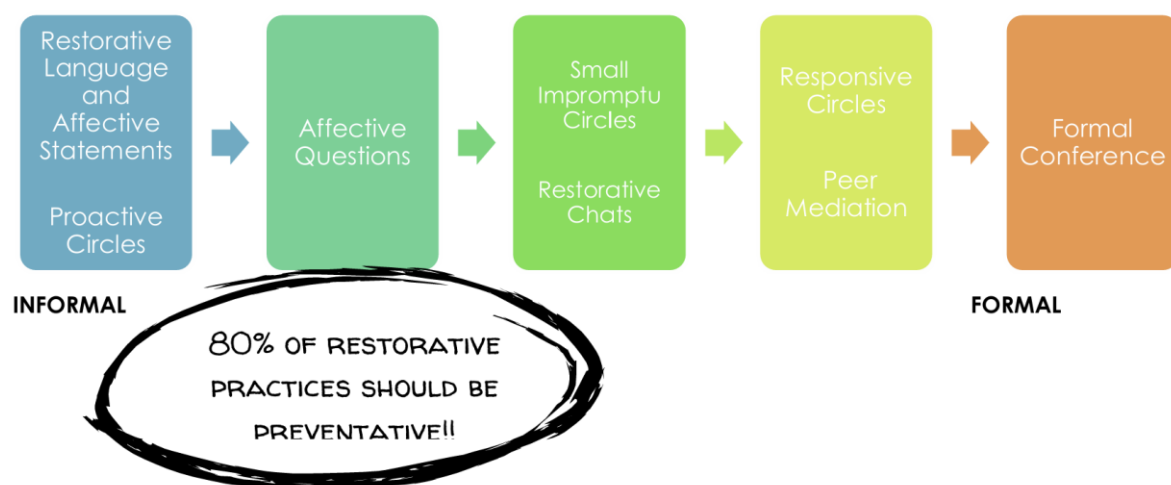


Figure 2.3. Restorative practice

Source: Wachtel (2016)



"The underlying premise of restorative practices is that people are happier, more cooperative, more productive and more likely to make positive changes when those in positions of authority do things with them rather than to them or for them." (The Restorative Practice Handbook, Costello and Wachtel)

Fig 2.4 Restorative practices

The Restorative Justice Theory offers a relevant framework for understanding the part of customary leaders' courts in promoting impartiality and reconciliation in Kadoma. This theory aligns with the study's objective of developing an integrated model that harmonizes traditional leaders' courts and the modern justice delivery system. By recognizing the importance of

incorporating traditional justice mechanisms focused on restorative justice – such as mediation, reconciliation, and reparation – into the formal justice system, the study aims to promote a more restorative approach to justice (Johnstone, 2002). This approach prioritizes healing, accountability, and reparation, and seeks to integrate traditional leaders' courts with the modern justice system.

2.3 The conceptual framework

A conceptual framework is defined by Creswell (2014:92) as, “a visual or written representation of the research problem, including the key concepts, variables, and relationships that are relevant to the study.” The drive of a conceptual framework is to offer a perfect and coherent structure for organizing and guiding the research study, ensuring that the research questions, objectives, and methods are aligned and focused on achieving the study's goals (Creswell, 2014; Sekaran, 2003). Within this study, the idea that traditional leaders' courts and modern justice delivery systems can be harmonized to create a more operative and effectual justice system. The framework identifies the independent variables, dependent variables, and the relationships between them as represented by Figure 2.5 below:

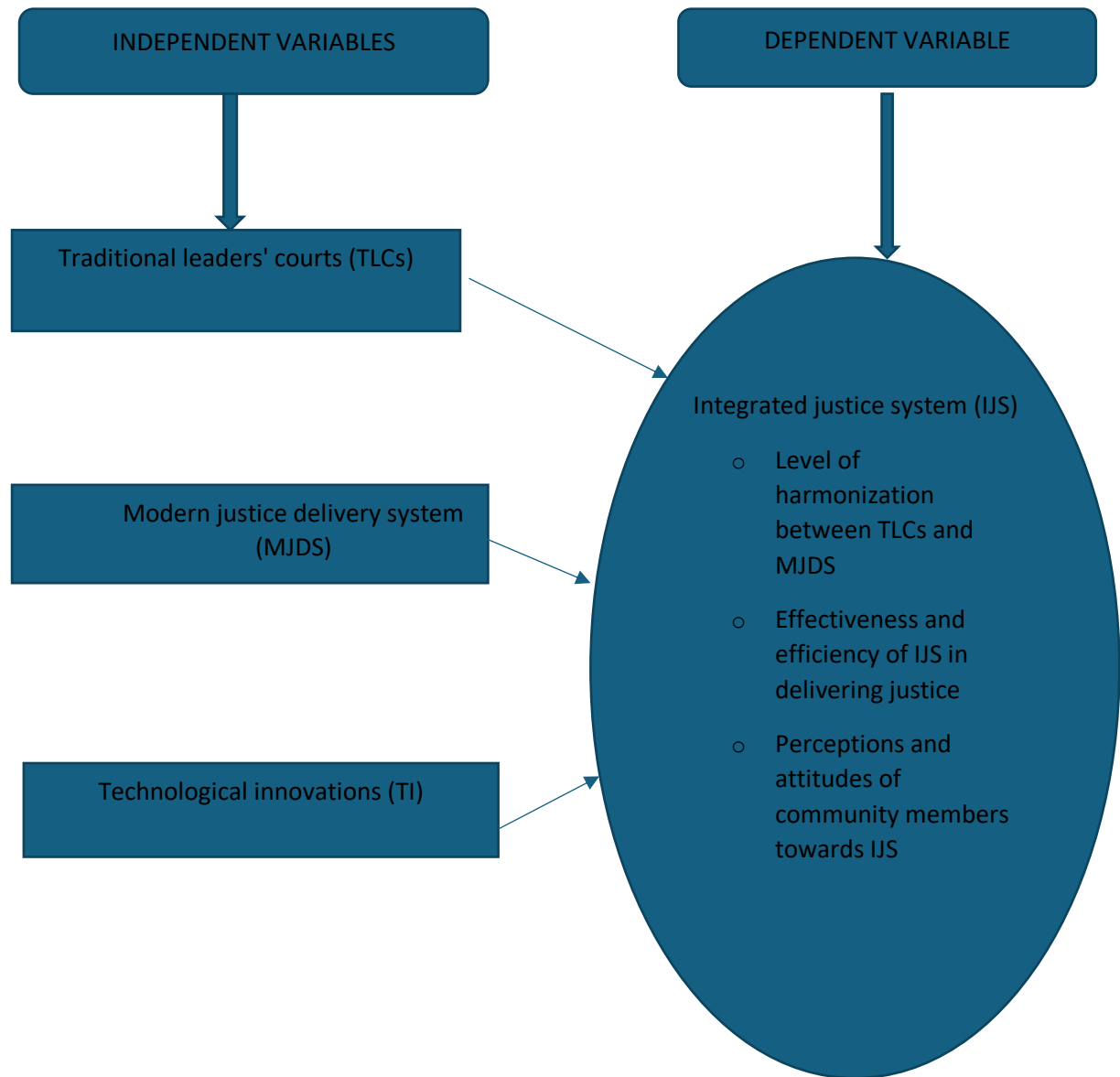


Figure 2.5 Conceptual framework of the study

Source: Researcher's own creation (2024)

Traditional leadership courts (TLCs) in Zimbabwe are indigenous justice systems that have been in existence for centuries, providing justice services to rural communities (Mawere, 2016). TLCs in Zimbabwe are characterized by their emphasis on restorative justice, reconciliation, and reparation, rather than punishment and retribution (Bennett, 2004). According to the Traditional Leaders Act (Chapter 29:17) of Zimbabwe, TLCs have the power to hear and determine cases involving customary law (Government of Zimbabwe, 2013). TLCs

in Zimbabwe are also known for their ability to promote social cohesion, resolve conflicts, and maintain social order.

Modern justice delivery systems (MJDS) in Zimbabwe, on the other hand, are formal, state-based justice systems that are characterized by their emphasis on punitive justice, due process, and the rule of law (Merry, 1992). MJDS in Zimbabwe are often based on Western legal traditions and are characterized by their reliance on codified laws, formal courts, and trained legal professionals (Pospisil, 1971). According to the Constitution of Zimbabwe (2013), MJDS in Zimbabwe are responsible for promoting justice, fairness, and human rights. However, MJDS in Zimbabwe have been criticized for being inaccessible, expensive, and slow, particularly for rural communities.

The conceptual framework for this study examines the relationship between traditional leadership courts (TLCs) and modern justice delivery systems (MJDS) in Zimbabwe. The framework proposes that TLCs and MJDS can be harmonized to create a more effective and efficient justice system (Creswell, 2014). The framework also suggests that technological innovations (TI) can enhance the communication, efficiency, and transparency between TLCs and MJDS, leading to a more harmonized and effective integrated justice system (IJS) (Miles & Huberman, 1994). The framework highlights the importance of understanding the characteristics, procedures, and powers of TLCs and MJDS in Zimbabwe, as well as the perceptions and attitudes of community members towards these systems.

2.4 Relationship between Traditional Leaders Courts and Modern Justice Delivery System

The legacy of colonial rule often led to a dichotomy between formal legal systems imposed by colonial powers and indigenous practices rooted in local traditions (Holleman, 2019). Traditional leadership, along with the mechanisms of conflict resolution associated with it, has a history as rich and enduring as the formation of pre-colonial states in countries like Nigeria and Kenya. The influences of both colonial and post-colonial periods have significantly shaped the current status of traditional leadership. During the colonial era, the colonial government implemented indirect rule as a method of governance in Nigeria.

A study conducted by Matondi in Nigeria between 2004 and 2007 found that chiefs in their districts spend approximately 55% of their official time resolving disputes. This role is deeply rooted in Nigerian history, predating the colonial era. The 2013 Constitution acknowledges the

importance of traditional leaders in dispute resolution, granting them the power to resolve disputes within their communities in accordance with customary law.

In Kenya, customary leaders also play a significant role in conflict resolution, particularly among pastoralist communities where customary practices remain integral to governance (Ogwari, 2016). The mechanisms employed by these leaders often emphasize mediation, reconciliation, and community consensus, reflecting a deep-rooted cultural approach to conflict management that prioritizes social harmony over punitive measures.

This integration of traditional leadership into formal governance structures can provide valuable insights into effective conflict resolution strategies across various African contexts. By recognizing and leveraging these indigenous practices, there is potential for improved social cohesion and more effective justice delivery systems that resonate with local values and customs

2.5 Perceptions and attitudes towards the two systems

Many African community members regard traditional courts as more accessible and culturally relevant, especially in rural regions where formal courts may be far away and intimidating (Matlosa & Shale, 2015). This viewpoint is based on the understanding that traditional courts function within familiar cultural contexts, enabling individuals to engage with the justice process in a manner that aligns with their values and social norms. As a result, the legitimacy of traditional leaders is frequently viewed as superior to that of formal judicial authorities, which fosters trust and encourages community involvement in these courts (Roberts & Palmer, 2016).

Additionally, integrating modern legal principles into traditional court practices can have a positive impact on community perceptions. When traditional leaders receive training in contemporary legal frameworks and principles of fairness and equality, it can improve their decision-making processes and bolster public trust in their rulings (Ndulo, 2011). This integration not only contributes to standardizing practices across both systems but also reflects a commitment to upholding human rights within traditional contexts. As communities witness enhancements in the fairness and transparency of traditional court proceedings, they may become more inclined to engage collaboratively with both systems.

Lastly, public awareness campaigns designed to educate citizens about their rights within both traditional and modern justice systems can significantly shape perceptions. By informing

community members about the roles and limitations of each system, these campaigns can help demystify formal judicial processes while fostering respect for customary law (Holleman, 2019). Greater understanding can lead to more informed decisions regarding where to seek justice based on specific circumstances. Ultimately, cultivating positive perceptions of both systems through education and reform can improve overall access to justice in various African countries, ensuring that all citizens feel empowered to pursue redress for grievances.

2.6 Barriers that hinder the effective integration of the two systems

The effective integration of traditional courts and modern justice systems in various African countries faces several significant challenges. One major factor is the inherent conflict between traditional and modern judicial authorities, which can lead to confusion and mistrust among community members. Traditional leaders often perceive themselves as superior to formal judicial authorities due to their close ties with the community and their deep understanding of local customs (Sibanda, 2022). This perceived hierarchy can create tensions when individuals are unsure about which system to approach for justice, particularly when cases may fall under the jurisdiction of both systems.

The absence of clear guidelines that define the roles and responsibilities of traditional courts and modern justice systems complicates their relationship, resulting in inefficiencies and possible injustices. In the absence of well-established boundaries, confusion often arises about which system is responsible for handling particular cases, leading to overlapping jurisdictions that can hinder community members in their pursuit of justice. This lack of clarity may cause delays in resolving disputes, as individuals might be uncertain about where to submit their complaints or may try to navigate both systems at the same time. Such inefficiencies not only undermine public confidence in the justice process but also contribute to a perception of injustice when cases are mishandled or lost between the two systems (Sibanda, 2022).

Furthermore, the absence of standardized practices that ensure fairness and accountability across both platforms exacerbates challenges. Traditional courts often operate based on customary laws that may not align with modern legal principles, leading to inconsistencies in how justice is administered (Matsika & Chikwanje, 2020). For instance, traditional leaders may lack formal training in legal principles, resulting in biased or arbitrary decision-making that does not adhere to established human rights standards. This situation is compounded by societal hierarchies that may influence outcomes within traditional courts, potentially marginalizing certain groups such as women and youth (Valji, 2009). To address these challenges, it is

essential to establish comprehensive frameworks that clarify the roles of each system while promoting collaboration and mutual respect. Such frameworks would enhance the legitimacy of both traditional and modern courts and improve access to justice for all citizens by ensuring that disputes are resolved fairly and efficiently.

Additionally, there are systemic barriers that hinder the successful integration of these two systems. For instance, the lack of resources and infrastructure necessary for effective operation is a significant impediment. Many traditional courts operate without adequate support or training, resulting in inconsistent application of legal principles (Matsika & Chikwanje, 2020). Furthermore, issues such as technological illiteracy among users and inadequate internet connectivity can limit access to modern justice mechanisms, especially in rural areas where traditional courts are more prevalent (Harris, 2023). These challenges highlight the need for comprehensive reforms that address both the cultural dynamics at play and the practical limitations faced by both traditional and modern justice systems in various African countries.

2.7 Technological innovations that can be used to enhance the two systems

The Integrated Electronic Case Management System (IECMS) has been introduced in various African countries to enhance the efficiency and accessibility of justice delivery. This digital platform streamlines the litigation process by enabling electronic filing, case tracking, and court record management. The implementation of IECMS ensures continuity of judicial proceedings, even during disruptions like the COVID-19 pandemic (Muserere & Watson, 2023).

IECMS replaces manual and paper-based case tracking systems, which were prone to delays and inefficiencies. By digitizing court operations, it facilitates faster case resolutions, improves transparency, and enhances access to justice, particularly for rural individuals (Muserere & Watson, 2023; Dart et al., 2019). The system allows for online case tracking and virtual hearings, making judicial processes more user-friendly.

IECMS integrates various stakeholders, including police and correctional services, creating a cohesive legal ecosystem that responds effectively to litigants' needs (Chirume, 2022). The implementation of IECMS is underway in several countries, aiming to revolutionize the justice delivery system:

Kenya: The IECMS has also been referenced in discussions about digital transformation in Kenya's judiciary. The application of similar automated case management systems aims to enhance efficiency and accessibility within the Kenyan legal framework (Jamila et al., 2021)

Nigeria: Nigeria is mentioned as another country where the IECMS has been adopted to improve judicial processes and access to justice through technological innovations (Malaba, 2022)

Botswana: While not specifically named as using the IECMS, Botswana has been working on implementing an Electronic Case Records Management System (CRMS), which faces similar challenges related to technology and infrastructure (Mosweu & Kenosi, 2018)

Additionally, integrating mobile technology can further bridge the gap between traditional and modern justice systems. Mobile applications can facilitate communication between community members and traditional leaders, enabling individuals to report grievances or seek advice without needing to travel long distances. This approach aligns with the growing trend of using mobile platforms for legal assistance, which has proven effective in other regions (Valji, 2009).

Furthermore, incorporating online dispute resolution (ODR) mechanisms can provide an alternative avenue for resolving conflicts that may not require physical court appearances. ODR platforms can help manage cases related to minor disputes or mediation processes, making it easier for parties to reach agreements without the need for formal litigation (Holleman, 2019). By leveraging these technological innovations, this can enhance the justice delivery systems, ensuring that both traditional and modern mechanisms work collaboratively to meet the needs of all citizens.

The incorporation of artificial intelligence (AI) and machine learning (ML) in legal operations presents substantial promise. AI has the capacity to aid in legal research by scrutinizing extensive datasets to recognize trends and forecast results, thereby amplifying the decision-making capabilities for judges and attorneys (APET, 2023). Moreover, AI-powered instruments can mechanize mundane responsibilities like document examination and case evaluations, allowing legal experts to concentrate on intricate matters. Furthermore, the utilization of virtual reality (VR) applications is under investigation for educational objectives, delivering simulated courtroom settings that refine the competencies of legal professionals (APET, 2023).

Artificial Intelligence (AI) can be leveraged in conjunction with predictive modeling techniques to enhance judgement categorization and forecasting tasks (Kumar et al., 2020). Statistical analysis can be employed to assess the relationship between predetermined factors and outcomes, while machine learning techniques facilitate the discovery of new patterns and factors within judgements that may have been overlooked previously (Chen & Asch, 2017). Predictive modeling stands as a mathematical procedure that examines patterns within input data to anticipate forthcoming events or results (Shmueli et al., 2016). Serving as an essential element of predictive analytics, it leverages both present and past data to project actions, behaviors, and patterns (Siegel, 2016).

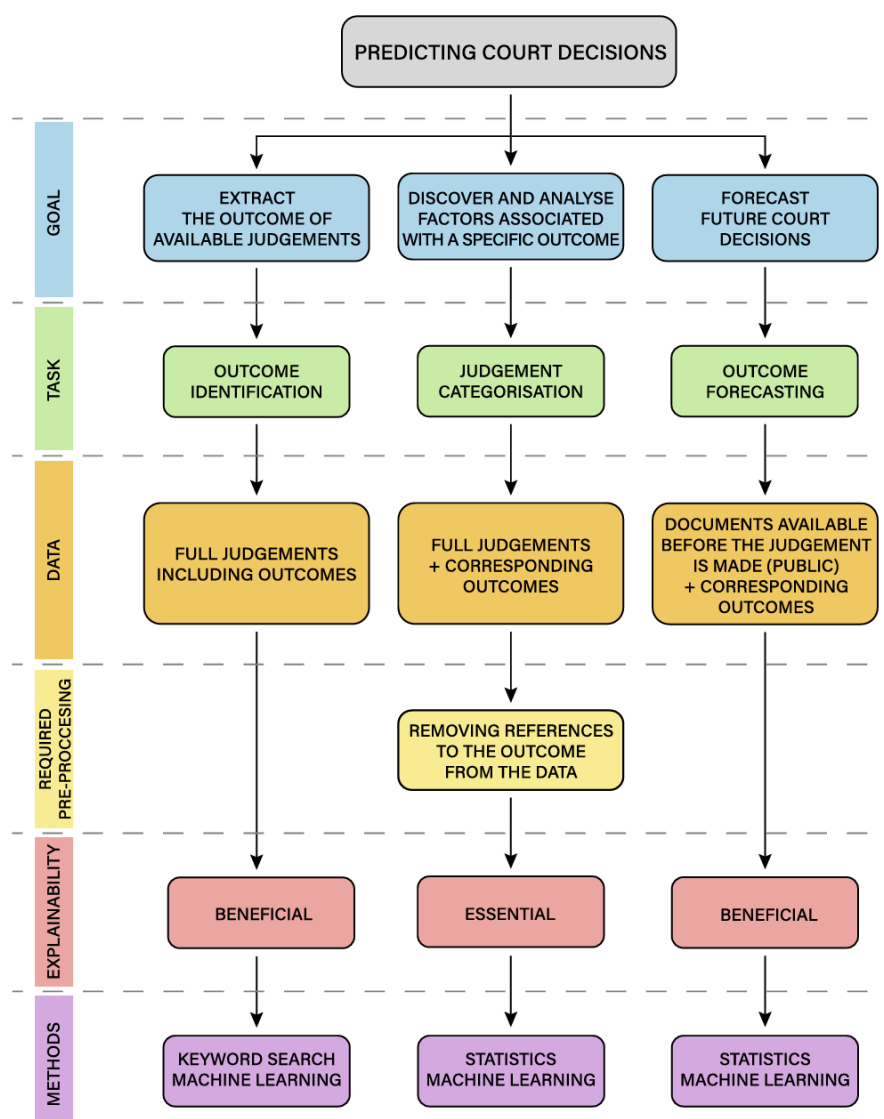


Figure 2.6. Predictive modelling techniques

Source: Medvedeva, et.al,2021

2.8 Chapter summary

The preceding section delved into the theoretical and conceptual matters that form the foundation of this investigation. It also unveiled pertinent literature linked to the goals explored within this study. Additionally, it introduced the conceptual framework, furnishing a lucid and orderly framework for arranging and steering the research inquiry, guaranteeing that the research inquiries, objectives, and methodologies are harmonized and aimed at accomplishing the study's aims. The subsequent section will center on the study's methodology.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This section offers a thorough analysis of the research methodology utilized in the study, covering the fundamental philosophical framework, research approach, methodological structure, design strategy, target population, sampling methods, and data collection techniques. A qualitative research paradigm was deemed most suitable for this investigation, as it facilitates a nuanced exploration of the complex perceptions, attitudes, and barriers surrounding the intersection of traditional leaders' courts and the modern justice delivery system in Kadoma. This approach yields rich, contextualized insights into the intricacies of integrating these systems effectively. Adopting a qualitative research design, the study employed purposive sampling techniques and specialized data collection tools to gather nuanced, high-quality data. Procedures for ensuring data integrity, reliability, and validity were meticulously detailed, alongside methods for data analysis, interpretation, and presentation, all while upholding stringent ethical standards throughout the research endeavor.

3.2 Research Philosophy

Research philosophy encompasses a distinct set of beliefs, principles, and assumptions that underpin a researcher's understanding of reality and knowledge. According to Field (2018), this philosophical framework serves as the foundational blueprint guiding researchers' methodological choices, data collection approaches, analytical techniques, and overall research implementation. Within the domain of social science research, four fundamental philosophical

paradigms are widely recognized, namely positivism, interpretivism, pragmatism, and constructivism (Creswell, 2014). These paradigms represent disparate perspectives on the nature of reality, knowledge, and the research process, each with its unique set of assumptions, beliefs, and methodological guidelines that inform researchers' study designs and implementations (Blumberg et al., 2014).

3.2.1 Positivism

Positivism, a research philosophy grounded in empirical observation and scientific methodologies, highlights the objective and quantifiable aspects of reality (Creswell, 2014). Within the realm of positivism, researchers aim to investigate phenomena in an impartial and methodical manner, often employing structured experiments and statistical analyses to unveil trends and regularities in data (Blumberg et al., 2014). Advocates of positivism uphold the belief in an objective reality that can be observed and quantified, striving to produce knowledge that is both generalizable and reproducible (Creswell, 2014). This philosophy emphasizes the application of deductive reasoning, with an emphasis on formulating hypotheses that can be empirically tested (Blumberg et al., 2014). Embracing a positivist perspective, researchers seek to establish causal connections and formulate predictions based on observable data, placing importance on objectivity and maintaining a clear distinction between the researcher and the research process (Creswell, 2014).

3.2.2 Pragmatism

Pragmatism, as a research philosophy, centers on the practical implications and the usefulness of research outcomes (Denzin & Lincoln, 2018). Pragmatic researchers focus on what is effective in practice and are open to utilizing a range of research methodologies (Smith, 2015). In the domain of pragmatism, the key emphasis is on applying knowledge to resolve real-world problems and facilitate informed decision-making (Denzin & Lincoln, 2018). Researchers adhering to pragmatism often prioritize the significance and applicability of research results in guiding actions and shaping policies (Smith, 2015). This philosophy values the adaptability of research methodologies to suit the specific requirements of the research environment, with a focus on the practical implications of research findings for stakeholders and society as a whole (Denzin & Lincoln, 2018). By embracing a pragmatic research philosophy, researchers aim to bridge the gap between theory and application, striving to produce knowledge that can drive tangible enhancements and positive transformations in practical settings (Smith, 2015).

3.2.3 Interpretivism

Interpretivism, situated within the research philosophy domain, emphasizes the subjective and context-specific aspect of social reality (Silverman, 2019). Within interpretivist ideals, researchers aim to grasp the meanings and interpretations that individuals assign to their experiences and interactions within their social environments (Creswell, 2014). Interpretivist researchers often employ qualitative research techniques like interviews, observations, and textual analyses to delve into the intricacies of human behavior and social exchanges (Silverman, 2019). The interpretivist approach values the array of perspectives and recognizes the significance of considering the cultural, historical, and social influences that mold individuals' understandings and behaviors (Creswell, 2014). By adopting an interpretivist standpoint, researchers aim to uncover the nuanced and subjective facets of social phenomena, aspiring to develop comprehensive and profound insights into human experiences within their specific contexts (Silverman, 2019).

3.2.4. Constructivism

Researchers operating within a constructivist framework seek to elucidate how individuals impose meaning on their realities, focusing on the intricate processes of meaning-making and the reciprocal influences between social interactions and knowledge formation (Guba & Lincoln, 1994). This philosophical stance acknowledges the fluid, adaptive nature of knowledge and the pivotal role of personal experiences, cultural backgrounds, and belief systems in shaping individuals' comprehension of the world (Crotty, 1998). By adopting a constructivist approach, researchers aim to explore the complex, nuanced dynamics of human cognition, perception, and interpretation, seeking to reveal the diverse ways in which individuals construct, negotiate, and attribute meaning within their social environments.

For this study on developing an integrated model for harmonizing traditional leaders' courts with modern justice delivery systems in Zimbabwe, a pragmatic research philosophy appears to be particularly suitable given the practical focus on bridging traditional and modern justice systems effectively. Pragmatism's emphasis on practical outcomes, utility of research findings, and flexibility in utilizing various research methods align well with the study's objectives of understanding community perceptions, identifying integration barriers, exploring technological enhancements, and proposing a harmonized model. This philosophy's focus on applying knowledge to solve real-world problems and informing actions resonates with the study's aim to enhance the functionality and effectiveness of justice systems in Kadoma. By adopting a pragmatic approach, researchers can navigate the complexities of integrating

traditional and modern justice systems, prioritize the relevance and usefulness of research outcomes, and strive to generate knowledge that leads to tangible improvements and positive changes in the real-world context of justice delivery.

While a pragmatic research philosophy offers flexibility and a focus on practical outcomes, it also poses certain weaknesses in the context of the study on harmonizing traditional leaders' courts with modern justice delivery systems in Zimbabwe. One potential drawback of pragmatism is the risk of prioritizing short-term practicality over theoretical depth, which could lead to overlooking underlying complexities and nuances in the integration process (Creswell, 2014). Additionally, the emphasis on immediate utility may result in a narrow focus on immediate solutions, potentially neglecting long-term implications and broader theoretical insights (Denzin & Lincoln, 2018). This approach could limit the depth of analysis and the exploration of fundamental philosophical differences between traditional and modern justice systems, which are crucial for achieving sustainable integration and effective harmonization in the long run (Smith, 2015).

3.3. Research approach

The research approach denotes the comprehensive blueprint or methodology that directs the research process (Smith and Brown, 2018). It encompasses the core principles, ideologies, and techniques utilized in gathering data, scrutinizing information, deciphering findings, and constructing insights within a specific research endeavor. The chosen research approach is customized to fit the essence of the research quandary, the aims of the study, and the foundational theoretical structure, influencing how researchers explore and tackle the research query in focus (Anderson, 2016).

Aligned with the study's emphasis on aligning the customary judicial systems led by traditional leaders with contemporary justice dispensation mechanisms in Zimbabwe, a qualitative research methodology was embraced. This approach integrated a blend of in-depth interviews, open-ended surveys, and firsthand observation as the primary data collection techniques. Qualitative research, recognized for its concentration on investigating intricate phenomena in authentic environments, was selected to acquire a profound comprehension of human conduct, attitudes, and engagements within the framework of traditional and modern justice frameworks (Merriam, 2009). Through in-depth interviews, researchers could delve into the perspectives and experiences of key stakeholders, while open-ended questionnaires provided a broader perspective from a larger sample. Direct observation complemented these methods by allowing

researchers to witness firsthand the dynamics and processes within traditional leaders' courts and modern justice systems. This multi-method approach facilitated the capture of diverse viewpoints, cultural nuances, and contextual insights necessary for developing a comprehensive and nuanced model for the integration of these distinct justice systems in Zimbabwe (Creswell, 2013).

3.4. Data collection tools

In the study of harmonizing traditional leaders' courts with modern justice delivery systems in Zimbabwe, various data collection tools were employed to gather comprehensive insights. Each of the following tools serves a specific purpose and contributes to understanding the complexities involved in integrating these two systems:

3.4.1. Interviews

Conducting semi-structured interviews with traditional leaders, magistrates, and community members can yield rich qualitative data that reveals nuanced insights into the challenges and successes of both systems. Interviews can help uncover underlying beliefs about justice, the role of traditional leaders, and specific barriers to integration (Roberts & Palmer, 2016). This qualitative approach is crucial for understanding the cultural context in which these courts operate and can inform the development of strategies that respect local customs while aligning with modern legal standards.

3.4.2. Focus Groups

Focus groups facilitate discussions among community members about their experiences with both traditional and modern justice systems. This tool encourages interaction and dialogue, allowing participants to express their views in a group setting (Cresswell, 2014). Focus groups can reveal collective attitudes and highlight common concerns regarding the effectiveness of dispute resolution processes (Matsika & Chikwanje, 2020). The dynamic nature of focus group discussions can also lead to the emergence of new ideas and solutions for improving integration between the two systems. By capturing diverse perspectives within a community, focus groups contribute to a more comprehensive understanding of how traditional courts can work alongside modern judicial frameworks.

3.4.3. Document Analysis

Document analysis involves reviewing existing literature, legal texts, policy documents, and reports related to traditional courts and modern justice systems. This tool is essential for

contextualizing the study within the broader legal framework governing these systems in Zimbabwe (Rukuni et al., 2022). Analysing documents provides insights into the formal recognition and roles of traditional leaders' courts. Understanding these legal frameworks is crucial for identifying gaps in current practices and proposing effective integration strategies.

3.4.4. Observations

Observational research allows researchers to gather firsthand information about how traditional courts operate in practice. By attending court sessions or community meetings where disputes are resolved, the researcher can gain insights into the interactions between traditional leaders and community members. Observations can reveal how culturally relevant practices are implemented in real-time and highlight any discrepancies between stated policies and actual practices (Ndulo, 2011). This method provides valuable context that enhances understanding of the dynamics at play within both traditional and modern justice systems.

3.5. Sampling

In the field of research, sampling refers to the methodical procedure of choosing a representative subset of units, like persons, entities, or components, from a larger population to enable a thorough investigation (Creswell, 2014). This carefully chosen subset, referred to as the sample, serves as a proxy for the population of interest, enabling researchers to extrapolate findings and make informed generalizations about the larger group based on the characteristics, behaviors, and responses of the selected sample (Babbie, 2016). Within the scope of this research, focusing on aligning traditional leaders' courts with contemporary justice delivery systems in Zimbabwe, a meticulously planned sampling strategy holds crucial importance in collecting data that mirrors the development of a suggested integrated framework. The sampling strategy will consider the varied perspectives and backgrounds of different stakeholders engaged in both systems, guaranteeing a holistic comprehension of the intricate matters at stake. The subsequent segment delineates the fundamental elements of the sampling strategy utilized in this study.

3.5.1 Target Population

The target population for this study includes individuals who interact with both traditional and modern justice systems. This encompasses community members, traditional leaders, legal practitioners and policy makers as represented:

Table. 3.1. Population distribution table

Participant	Designation	Number
1	Community members	5
2	Traditional leaders	5
3	Legal practitioners	5
4	Policy makers	5
Total		20

3.5.2 Sampling Techniques

To garner a nuanced understanding of the intricate relationships between traditional and modern justice systems, a dual sampling approach was employed.

3.5.2.1. Purposive Sampling

Purposive sampling, as conceptualized by Kersley et al. (2017), involves the deliberate selection of participants based on predefined criteria or attributes directly relevant to the research inquiry. This targeted approach was utilized to identify and recruit individuals possessing specialized knowledge or experience pertaining to the justice systems. For example, traditional leaders and magistrates were specifically sought out to provide insightful perspectives on their roles and interactions within the justice landscape, thereby enriching the study's findings.

3.5.2.2. Snowball Sampling

Snowball sampling was employed to broaden the pool of participants by capitalizing on recommendations from initial contributors. The process initiated with the identification of pivotal figures, including community members, customary leaders, legal experts, and policymakers, who possess insights into the amalgamation of traditional and contemporary justice systems. These initial contributors were tasked with suggesting other contacts within their circles who could offer distinctive viewpoints for the research. Through the snowball sampling technique, the participant pool expanded gradually as referrals introduced additional individuals with diverse backgrounds and opinions concerning traditional and modern justice systems in Zimbabwe. This approach facilitated the accessibility of a wider array of

perspectives and understandings, enriching the breadth and profundity of the data collected for the study.

3.6 Research Instrument Procedure

In executing the research instrument procedure, careful attention was paid to maintaining consistency and rigor across the implementation of the interview guide, administration of the open-ended questionnaire, and execution of the observation checklist.

3.6.1. Interview Guide Implementation

A carefully crafted interview guide was employed as a structured framework to elicit nuanced, in-depth perspectives from pivotal stakeholders embedded within Kadoma's traditional and modern justice systems. Through face-to-face interactions, the researcher navigated the guide's sequential questioning to probe participants' viewpoints on the prevailing dynamics between traditional leaders' courts and the modern justice delivery system. These interviews provided a conducive platform for participants to articulate their lived experiences, perceptions, and recommendations regarding the integration of these justice systems, ultimately facilitating a rich, multifaceted analysis of the subject matter.

3.6.2. Questionnaire Administration

Participants were provided with the questionnaire in printed form, allowing them to respond to the open-ended prompts at their convenience. The ensured clear instructions are provided to aid respondents in expressing their attitudes and perceptions towards the justice systems. The collected responses would then be carefully analyzed to identify common themes, barriers, and opportunities for enhancing the integration of traditional leaders' courts with the modern justice system.

3.6.3. Observation Checklist Execution

The researcher documented findings through direct observation of interactions between the two justice systems, community discussions, and technological utilization in justice proceedings. She marked the checklist items as either available (✓) or not available (✗) based on observations, ensuring a methodical approach to capturing data on the existing relationship, community perceptions, barriers to integration, technological innovations, and the development of an integrated model.

3.7. Data Analysis

To distill meaningful insights from the collected data, this study will employ a multifaceted array of data analysis methods and techniques. Each analytical approach will contribute uniquely to unraveling the intricacies of the integration process, while also shedding light on community perspectives.

3.7.1 Qualitative Data Analysis

Analyzing qualitative data plays a critical role in deciphering non-numeric data obtained through interviews, focus groups, and open-ended survey inquiries. This approach enables researchers to pinpoint themes, trends, and revelations within participants' accounts.

3.7.1.1. Thematic Analysis for Interview and Questionnaire Data

Transcribing and systematically organizing the data to facilitate meticulous coding will be done first. Through an iterative process of data examination, recurring patterns, themes, and categories pertinent to the research objectives will be meticulously identified and distilled. These emergent themes will undergo rigorous review, refinement, and definition, ultimately yielding a nuanced, contextualized understanding of participants' viewpoints on the intersections between traditional leaders' courts and the modern justice system, community dispositions, integration hurdles, technological innovations, and the proposed integrated model. To further elucidate the findings, visual representations via tables, graphs, and pie charts will be employed to enhance the clarity, accessibility, and overall impact of the results.

3.7.1.2. Analysis of Observation Checklist Data

The information gathered through the observation checklist was analyzed to provide insights into the interactions and dynamics between traditional leaders' courts and the modern justice delivery system. Observational notes were reviewed and categorized based on the checklist criteria, highlighting the presence or absence of key observations. Patterns and trends regarding the frequency of joint proceedings, community perceptions, identified barriers, technological utilization, and the development of the integrated model were synthesized to offer a nuanced understanding of the integration process and inform the study's conclusions.

3.7.1.3. Content Analysis

Content analysis was applied to documents, such as legal texts and policy papers, to identify how traditional courts are positioned within the broader legal framework. By examining these

documents, researchers can assess how well traditional courts align with modern legal standards and where gaps may exist (Hsieh & Shannon, 2005).

3.8 Ethical Considerations

In the course of this study, ethical considerations will be of utmost significance, ensuring that the research is conducted in accordance with the highest ethical standards, prioritizing responsibility and respect for participant autonomy. The research will rigorously follow established ethical guidelines governing studies involving human subjects, including obtaining informed consent, maintaining strict confidentiality, and allowing participants the right to withdraw from the study at any point. Informed consent stands as a crucial ethical foundation, providing participants with a thorough comprehension of the research objectives, methodologies, potential risks, and benefits, empowering them to make informed decisions regarding their involvement (Smith, 2020). This ethical approach not only safeguards the rights and dignity of participants but also cultivates an atmosphere of mutual respect and trust (Jones, 2019).

Additionally, the research prioritized the well-being of participants and the communities involved. This includes being sensitive to cultural norms and practices, particularly when engaging with traditional leaders and community members. The research team approached participants with respect and cultural awareness, ensuring that their rights and dignity are upheld throughout the study (Matsika & Chikwanje, 2020). For instance, when working with traditional leaders, it is essential to recognize their authority within their communities and engage them in a manner that respects local customs. Such sensitivity not only enhances trust between researchers and participants but also contributes to more meaningful data collection.

Moreover, the research complied with all relevant legal and ethical standards regarding data protection and privacy. This compliance includes adhering to local regulations and guidelines that govern research involving human participants (Rukuni et al., 2022). By ensuring that ethical considerations are integral to the research design, the study will contribute to responsible research practices and foster trust among participants and stakeholders. Ethical rigor is essential not only for protecting individuals but also for enhancing the credibility of the research itself.

3.9 Trustworthiness and truthfulness

Guaranteeing the trustworthiness and truthfulness of this study on harmonizing traditional leaders' courts with modern justice delivery systems in Zimbabwe is crucial for generating credible and reliable findings. To enhance the study's trustworthiness, several strategies were employed, focusing on four pivotal components of qualitative research rigor.

3.9.1. Credibility

This approach facilitated cross-validation of data from diverse sources, thereby augmenting the validity of the results (Denzin, 1978). For instance, insights gleaned from qualitative interviews with traditional leaders were juxtaposed with quantitative survey data from community members to ensure consistency in perceptions regarding the efficacy of both traditional and modern justice systems.

3.9.2. Transferability

In the context of this study, transferability entails showcasing the relevance of the results to alternate settings (Johnson & Smith, 2021). Through comprehensive depictions of the research environment, participant characteristics, and contextual elements impacting the study, readers can evaluate the extent to which the findings can be applied to comparable communities or circumstances (Brown & Davis, 2019). The study incorporated rich contextual information about Kadoma's unique social dynamics, enabling comparisons with other regions in Zimbabwe or similar jurisdictions elsewhere.

3.9.3. Dependability

Dependability concerns the reliability and consistency of data across different situations and timeframes (Anderson & Clark, 2022). Upholding dependability, the research procedures were thoroughly recorded, encompassing choices made during data gathering and analysis. This transparency allows for external reviewers to conduct audits, assessing the reliability of the research process (Smith & Johnson, 2018). For instance, maintaining a comprehensive audit trail of conducted interviews and data analysis methods would empower other researchers to reproduce the study and validate the results.

3.9.4. Confirmability

Confirmability emphasizes objectivity in research findings (Denzin, 2017). To enhance confirmability, the research engaged in reflexivity by acknowledging biases and perspectives

that may influence data interpretation. Regular discussions among research team members about their assumptions and interpretations helped mitigate bias and ensure that findings are grounded in participants' voices rather than researchers' preconceptions (Creswell & Poth, 2018). Additionally, member checking was employed by sharing preliminary findings with participants for their feedback on accuracy and resonance with their experiences. By implementing these strategies for ensuring trustworthiness and truthfulness throughout the research process, the study aimed to produce credible findings that contribute meaningfully to discussions on integrating traditional leaders' courts with modern justice delivery systems in Zimbabwe. This rigorous approach not only enhances the reliability of the research but also fosters trust among participants and stakeholders involved in the study.

3.10. Chapter Summary

This section has presented a comprehensive examination of the research methodology supporting this study, covering the foundational research philosophy, strategy, characteristics of the population, sampling methods, and tools for data collection. Moreover, it discussed the analysis methods utilized and the ethical principles that steered the research, emphasizing the necessity of informed consent, confidentiality, and thorough ethical review procedures. The methodological structure highlighted the critical significance of guaranteeing the reliability and authenticity of the research results, offering a detailed framework for the study. The following section will explore the presentation, interpretation, and discourse of the gathered data.

CHAPTER FOUR

DATA PRESENTATION, ANALYSIS AND DISCUSSION

4.1 Introduction

This section engages in a detailed examination, methodical display, and insightful dialogue on the research outcomes. The participants encompassed a varied mix of individuals, incorporating community members, customary leaders, legal professionals, and policymakers from traditional leaders' courts and Kadoma Magistrate Courts. A thematic analysis methodology was utilized to unravel the abundant qualitative data collected from interviews and open-ended surveys. Key, impactful excerpts were thoughtfully integrated into the analysis and presentation to enhance the voices and viewpoints of the participants. Observational notes were subjected to rigorous review and categorization based on predetermined checklist criteria, highlighting the presence or absence of pivotal observations aligned with the research objectives. Excel was utilized to create graphical illustrations, facilitating a more accessible and visual representation of the findings. Ultimately, the findings are contextualized within the existing literature to identify areas of convergence, divergence, and contribution to the prevailing body of knowledge.

4.2 Research Objectives Revisited

The study was informed by the following objectives:

- To analyse the existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma.
- To investigate the perceptions and attitudes of community members towards both traditional and modern justice systems.
- To identify and examine the barriers that hinder the effective integration of traditional leaders' courts with the modern justice system.
- To explore how technological innovations can be utilized to enhance communication, efficiency, and transparency between traditional courts and the modern justice systems.
- To develop and propose an integrated model that harmonizes the functions of traditional leaders' courts and the modern justice delivery system.

4.3. Respondent Profile Overview

This section provides an in-depth examination of the background characteristics of the respondents, which informed their suitability for participation in the study. Specifically, it delves into the response rate, demographic attributes such as gender and age distribution, educational attainment, and respondent segmentation, offering a comprehensive understanding of the participant pool.

4.3.1 Response Rate

The following data relates to response rate for the study.

Instrument	Target	Successful	Response rate
Interview guide	20	19	95.00%
Questionnaire	20	18	90.00%

Table 4.1: Response rate.

Source: primary data (2024).

The data depicted in Table 4.1 demonstrate an impressively high level of participation, with 95% of interviews and 90% of questionnaires successfully conducted. This surpasses the benchmark proposed by Anderson and Patel (2022), who argue that a response rate of no less than 70% signifies a significantly representative sample. The remarkably elevated response rate attained in this research implies a strong reflection of the study cohort. The eagerness and active involvement of the participants are recognized as pivotal elements contributing to this notable response rate.

4.3.2 Gender of respondents

Gender was deemed a crucial factor in ensuring a balanced representation of perspectives from both males and females, particularly in the context of developing an integrated model that harmonizes traditional leaders' courts and the modern justice delivery system. To address this, data source triangulation was employed, taking into account demographic parameters such as gender. The demographic breakdown of the study participants is presented in Table 4.2 below, providing insight into the gender composition of the sample.

The interviewee profiles (n = 19)	Role	Gender	Questionnaire profiles(n=18)	Gender
Interviewee 1-5	Community members	Male = 3, females=2	Community members	Male = 3, females=2
Interviewee 6-10	Traditional leaders	Male =4, Female =1	Traditional leaders	Male =5, Female =0
Interviewee 11-15	Legal practitioners	Male=3, Female=2	Legal practitioners	Male=4, Female=1
Interviewee 16-19	Policy makers	Male=3, Female=1	Policy makers	Male=2, Female=1

Table 4.2: Participants' gender profiles

Source: primary data (2024)

The data displayed in Table 4.2 highlights that out of the interview participants, 13 individuals, constituting 68% of the total, were male, while 6, representing 32%, were female. In contrast, concerning the questionnaire responses, 4 respondents, making up 22% of the total, were female, while a significant 14, accounting for 78% of the total participants, were male. Despite the higher male participation, the study included all gender categories, indicating a level of balance in terms of diverse perspectives and experiences influenced by gender. The inclusion of both genders in the sample enhances the credibility and representativeness of the dataset, aligning with the perspectives of Davis, Roberts, and Thompson (2019).

4.3.3 Age group of respondents for interview and questionnaires

The findings on the ages of the respondents are presented in Figure Table 4.3 below.

Age group	Interview	Questionnaire
Below 25	1	2
25 - 40	5	2
41 - 55	6	6
Above 55	7	8
Total	19	18

Table 4.3 Age group of respondents

Source: primary data (2024)

As evident from Table 4.3, the majority of interview respondents fell within the 55+ age bracket, with 7 participants (37%) representing this mature and enlightened demographic. The 41-55 age group followed closely, comprising 6 respondents (32%), while the 25-40 age bracket accounted for 5 responses (26%). Notably, only 1 participant (5%) was below the age of 25, suggesting a predominantly mature and experienced participant pool. Among the questionnaire respondents, the majority, as well, fell within the above 55 age group, constituting 44 % of the total respondents. The next significant group is the 41-55 age bracket, representing 33 % of the respondents. Both the below 25 and 25 to 40 age groups have equal representation of 2 participants respectively, each accounting for 11 % of the respondents. This distribution indicates a concentration of respondents in the above 55 range, with a significantly very low distribution in the younger age categories. In this research, participants from all adult age brackets were included. As per the insights of Rodriguez and Nguyen (2021), maintaining a diverse distribution across age groups further enhances the representativeness of the findings.

4.3.4 Level of education of the respondents

This study successfully captured a diverse age spectrum of adults, ensuring comprehensive representation across various age groups. As Markos and Sridevi (2020) astutely argue, achieving a balanced distribution of respondent age groups significantly enhances the representativeness and generalizability of the research findings.

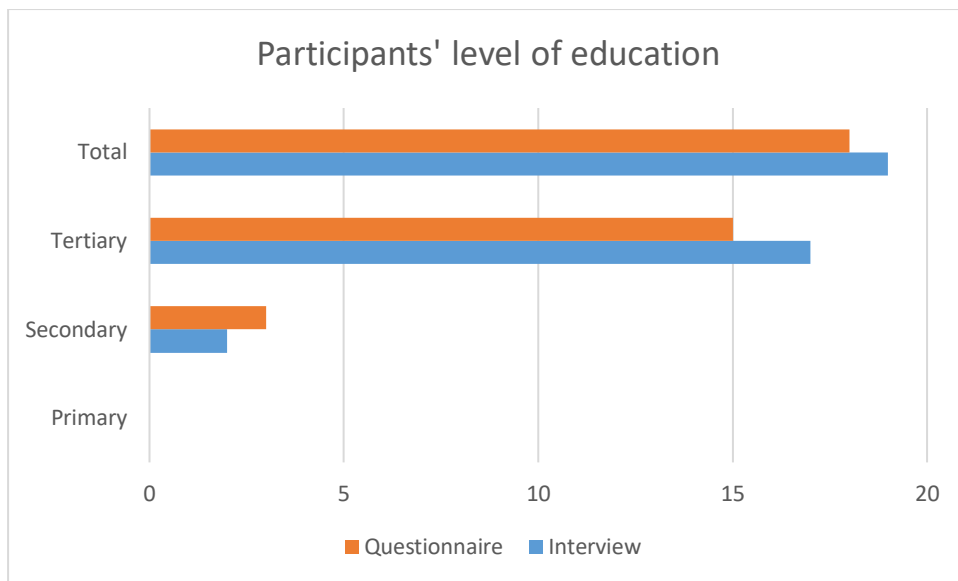


Figure 4.1. Participants’ level of education

Source: primary data (2024)

Participant data reveals that no respondents reported having a primary level of education, indicating a potential underrepresentation of individuals with this educational background in the study. Among the respondents, 11.1% of interviewees and 16.7% of questionnaire respondents had a secondary education. This group may offer perspectives shaped by a moderate level of exposure to both traditional and modern justice systems, potentially influencing their understanding of the integration process. Furthermore, the majority of respondents, comprising 88.9% of interviewees and 83.3% of questionnaire respondents, had tertiary education. Individuals with tertiary education often possess higher levels of critical thinking skills and analytical abilities, which could lead to more nuanced insights into the harmonization of justice systems. The absence of respondents with primary education highlights a gap in the study, as their unique perspectives and challenges may not have been captured in the analysis.

In line with Methode, et al. (2019), which argues that individuals' educational backgrounds can shape their interpretations of complex concepts, the distribution of respondents across different education levels underscores the diverse perspectives that may exist regarding the integration of traditional leaders' courts with the modern justice system. The findings suggest the importance of considering educational diversity in understanding and implementing strategies for harmonizing these justice systems. Expressing the data in percentages illuminates the

educational composition of the respondent pool, with secondary education holders comprising 13.9% of the total and tertiary education holders making up the majority at 86.1%.

4.4 Research Objective 1 – To analyse the existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma.

To fulfill research objective 1, focusing on analysing the existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma, participants provided diverse responses reflecting their perspectives on this crucial aspect. The table below outlines six different themes or responses that emerged from the study, along with their frequencies and corresponding percentages

Existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma	Frequency	Percentage (%)
Positive collaboration and mutual understanding	10	27.0
Lack of communication and coordination	6	16.2
Traditional courts respected, but underutilized	5	13.5
Instances of conflict and overlapping jurisdiction	8	21.6
Modern system seen as more efficient but less accessible	4	10.8
Need for formalized integration mechanisms	4	10.8
Total	37	100%

Table 4.4 Existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma

Source: Primary data (2024)

The study findings represented by Table 4.4 above shed light on the varied perceptions and experiences regarding the relationship between traditional leaders' courts and the modern justice delivery system in Kadoma. The most common theme identified by respondents was positive collaboration and mutual understanding, accounting for 27.0% of the total responses. This indicates a recognition of the benefits that can be derived from effective cooperation between the two systems. Conversely, 16.2% of participants highlighted a lack of communication and coordination as a significant issue in the existing relationship. This suggests a potential area for improvement to enhance the synergy between traditional and modern justice systems. Additionally, 13.5% of respondents noted that while traditional courts are respected, they may not be fully utilized in the current system. Furthermore, 21.6% of participants mentioned instances of conflict and overlapping jurisdiction between traditional and modern courts, indicating a potential source of tension that needs to be addressed. Some respondents (10.8%) viewed the modern justice system as more efficient but less accessible to certain segments of the population. The following interview excerpts and questionnaire respondents provide a glimpse into the varied perspectives and experiences shared by individuals regarding the relationship between traditional leaders' courts and the modern justice delivery system in Kadoma, reflecting the diverse themes identified in the study analysis:

Participant 1:

I have seen instances where traditional leaders and modern courts work together seamlessly, understanding each other's roles to ensure justice is served effectively.

Interviewee 2:

There seems to be a lack of communication between traditional leaders' courts and the modern system, leading to confusion and delays in resolving cases.

Participant 8:

While traditional courts are respected in our community, I feel they are underutilized and could play a more active role in the justice system.

Interviewee 4:

There have been cases where traditional and modern courts have clashed over jurisdiction, causing confusion and prolonging legal processes.

Interviewee 5:

The modern justice system is efficient, but not everyone can easily access it, especially those in remote areas where traditional courts are more accessible.

Participant 17:

We need formalized mechanisms to integrate traditional leaders' courts with the modern justice system to ensure a harmonious and effective legal framework for our community.

The results of this investigation align with a study conducted by Osei and Adom (2019) in Ghana, which examined the fusion of traditional justice systems with the formal legal structure. Their work emphasized comparable themes regarding the necessity for improved coordination and communication between traditional and contemporary justice systems to bolster access to justice for all community members (Osei & Adom, 2019). Additionally, a study by Wang et al. (2020) delved into the correlation between traditional leaders' courts and the modern justice system in Malaysia. Their research brought to light instances of discord and overlapping authority, underscoring the significance of structured integration mechanisms to tackle these issues and establish a more cohesive legal framework in the nation. In essence, these findings offer valuable perspectives on the dynamics of the interplay between traditional leaders' courts and the contemporary justice delivery system in Kadoma. Addressing the themes identified by respondents can aid in devising strategies for enhanced integration and cooperation between these two systems, ultimately elevating the efficacy of the overall justice delivery process in the region.

4.5. Research objective 2 - To investigate the perceptions and attitudes of community members towards both traditional and modern justice systems.

To fulfil research objective 2, which aimed to investigate the perceptions and attitudes of community members towards both traditional and modern justice systems, participants provided diverse responses reflecting their viewpoints on these systems. Figure 4.2 below outlines six different themes that emerged from the study, along with their frequencies and corresponding percentages:

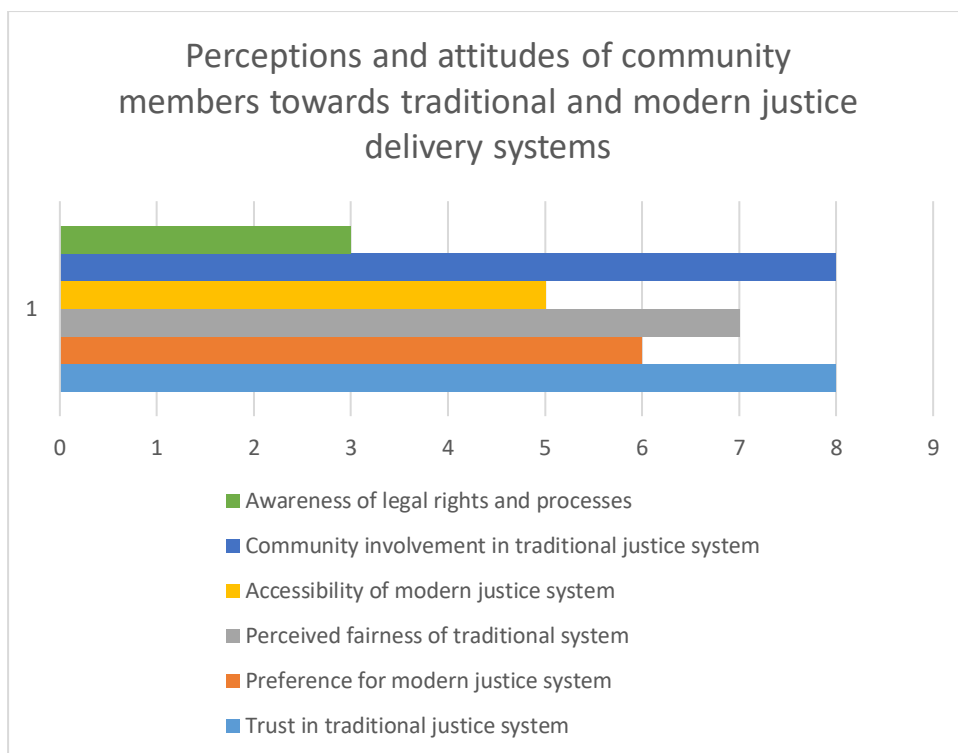


Figure 4.2. Perceptions and attitudes of community members towards both traditional and modern justice systems

Source: Primary data (2024)

The analysis of community perceptions and attitudes towards traditional and modern justice systems revealed diverse viewpoints among participants. A notable finding was the significant level of trust placed in the traditional justice system (21.6%), reflecting a deep-rooted cultural legitimacy and historical reliance on these mechanisms. Conversely, a portion of participants (16.2%) expressed a preference for the modern justice system, emphasizing its perceived efficiency and formal procedures. The perception of fairness within the traditional system (18.9%) highlighted community members' belief in the equitable nature of traditional dispute resolution processes, while the acknowledgment of the accessibility of the modern justice system (13.5%) underscored efforts to make formal legal mechanisms more reachable, particularly in rural areas. The emphasis on community involvement in the traditional justice system (21.6%) echoed the importance of local participation in ensuring the legitimacy and effectiveness of dispute resolution, aligning with previous studies in various African contexts. However, a smaller percentage of participants (8.1%) demonstrated awareness of legal rights and processes, indicating a continued need for legal education and awareness campaigns within the community. These findings collectively emphasize the complex interplay of cultural norms, accessibility, fairness, and community involvement in shaping perceptions of justice systems,

underscoring the importance of considering these factors in legal reform efforts. The following are some of the quoted verbatim from participants:

Interviewee 5:

Our elders have always resolved disputes fairly using traditional methods. I trust their wisdom and the community's customs.

Respondent 2:

I prefer going to court because it follows clear procedures and laws. It feels more official and reliable.

Interviewee 7:

In our culture, everyone gets a chance to speak and be heard in traditional meetings. It feels fair and inclusive.

Respondent 9:

The court is closer to town, so it's easier to reach compared to the distant village where traditional meetings are held.

Interviewee 11:

I believe in the power of community consensus. When we solve issues together, there's a sense of unity and mutual understanding.

Interviewee 17:

I wish I knew more about my rights under the law. Sometimes I feel lost in legal matters and unsure of what to do.

The findings corroborate previous findings by researchers such as Afolabi and Adegoke (2019), whose studies conducted in Nigeria highlighted the trust and cultural legitimacy associated with traditional justice mechanisms. Similarly, Osei-Tutu et al. (2016) in Ghana found preferences for the efficiency of the modern legal system. Mutebi and Kanyangia (2017) in Uganda emphasized the perceived fairness of traditional dispute resolution processes. Ncube and Dube (2018) in Zimbabwe focused on enhancing the accessibility of formal legal mechanisms. Moreover, Ouedraogo and Some (2015) in Burkina Faso stressed the importance of community participation in traditional dispute resolution.

4.6. Research objective 3 - To identify and examine the barriers that hinder the effective integration of traditional leaders' courts with the modern justice system.

The study's third objective sought to identify and examine the barriers that hinder the effective integration of traditional leaders' courts with the modern justice system. Table 4.5 shows the responses from the participants:

Barriers that hinder the effective integration of traditional leaders' courts with the modern justice system.	Frequency	Percentage (%)
Lack of formal recognition of traditional leaders' decisions by modern legal institutions	10	27.0%
Differences in legal procedures and standards between traditional and modern systems	8	21.6%
Limited understanding and awareness of traditional justice practices among modern legal professionals	6	16.2%
Resistance to change and reluctance to collaborate between traditional and modern justice systems	5	13.5%
Lack of clear coordination and communication mechanisms between traditional and modern courts	5	13.5%

Challenges in enforcing traditional decisions within the modern legal framework	3	8.1%
Total	37	100%

Table 4.5 Barriers that hinder the effective integration of traditional leaders' courts with the modern justice system.

Source: Primary data (2024)

In the context of the barriers hindering the integration of traditional leaders' courts with the modern justice system, several key themes emerged from the participant responses. The most prevalent barriers included the lack of formal recognition of traditional leaders' decisions by modern legal institutions (27.0%) and differences in legal procedures and standards between traditional and modern systems (21.6%). Additionally, limited understanding of traditional justice practices among modern legal professionals (16.2%) and resistance to collaboration between the two systems (13.5%) were highlighted as significant impediments. Issues such as the lack of clear coordination mechanisms (13.5%) and challenges in enforcing traditional decisions within the modern legal framework (8.1%) further underscored the complexities involved in integrating traditional and modern justice systems effectively. The following are some of the interview excerpts and questionnaire responses from the respondents:

Interviewee 6:

Our traditional leaders' decisions are often disregarded by the formal courts, which undermines the trust in our community's justice system.

Respondent 2:

The processes in traditional courts and modern legal systems are like night and day. It's challenging to navigate these different paths.

Interviewee 10:

I've seen misunderstandings arise when modern lawyers are unfamiliar with our traditional practices. It leads to confusion and delays.

Interviewee 13:

There's a reluctance to work together between traditional and modern systems. Each side feels their way is superior and resists compromise.

Respondent 5:

We lack clear channels for communication between the traditional and modern courts. This hampers any efforts at coordination and integration.

Interviewee 16:

Even when our traditional leaders reach a decision, enforcing it within the formal legal framework becomes a daunting task. The systems clash.

The findings from this study draw parallels with research conducted in diverse regions such as Asia and Africa. Studies by Li and Wang (2018) in China and Singh et al. (2017) in India have also identified barriers related to the recognition of traditional decisions by formal legal institutions and differences in legal procedures. Similarly, research by Ouedraogo and Some (2015) in Burkina Faso and Kimani and Mwangi (2019) in Kenya has highlighted issues of limited understanding among legal professionals and resistance to change in harmonizing traditional and modern legal frameworks. These consistent findings across different continents underscore the universal complexities involved in bridging traditional and modern justice systems and emphasize the need for tailored integration strategies informed by contextual nuances.

4.7. Research objective 4 - To explore how technological innovations can be utilized to enhance communication, efficiency, and transparency between traditional courts and the modern justice systems.

The study's fourth objective sought to explore how technological innovations can be utilized to enhance communication, efficiency, and transparency between traditional courts and the modern justice systems.

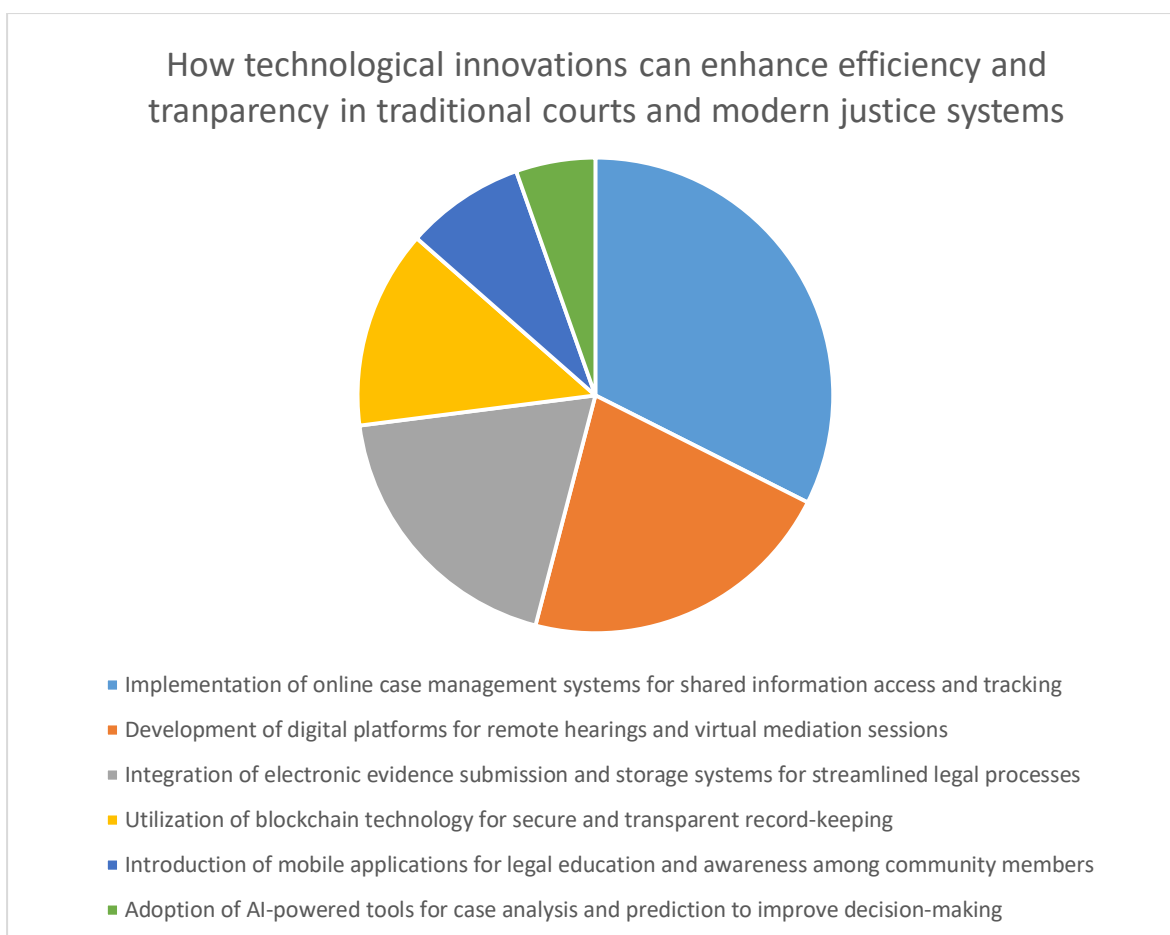


Figure 4.3. How technological innovations can be utilized to enhance efficiency and transparency in traditional courts and the modern justice systems.

Source: Primary data (2024)

As represented by the above figure on exploring how technological innovations can enhance communication, efficiency, and transparency between traditional courts and modern justice systems, several key themes emerged from participant responses. The most prominent strategies included the implementation of online case management systems for shared information access and tracking (32.4%) and the development of digital platforms for remote hearings and virtual mediation sessions (21.6%). Additionally, the integration of electronic evidence submission and storage systems for streamlined legal processes (18.9%) and the utilization of blockchain technology for secure record-keeping (13.5%) were identified as significant approaches. The introduction of mobile applications for legal education and awareness (8.1%) and the adoption of AI-powered tools for case analysis (5.4%) further highlighted innovative solutions to associate customary and present justice schemes, fostering efficiency and transparency. The following are some of the quoted verbatim from participants:

Interviewee 2:

Having an online system where both traditional and modern courts can access case information in real-time would greatly improve collaboration and decision-making.

Interviewee 8:

Submitting evidence electronically not only saves time but also ensures that information is stored securely and can be easily accessed when needed.

Interviewee 10:

Block chain offers a secure and transparent way to maintain records, enhancing trust in the judicial process and reducing the risk of tampering.

Interviewee 17:

Mobile apps can play a crucial role in educating community members about their legal rights and procedures, empowering them with knowledge.

Interviewee 19:

AI tools can assist in analysing large volumes of legal data, helping judges make more informed decisions and speeding up the judicial process.

Drawing parallels with research conducted in diverse regions such as Asia and South America, these findings resonate with previous studies that have explored the integration of technology in legal systems. Studies by Chen and Li (2019) in China and Singh et al. (2018) in India have also emphasized the importance of online case management systems and digital platforms for legal proceedings. Similarly, research by Silva and Santos (2020) in Brazil and González et al. (2017) in Argentina has highlighted the benefits of utilizing blockchain technology for transparent record-keeping and the role of mobile applications in legal education.

4.8. Research objective 5 - To develop and propose an integrated model that harmonizes the functions of traditional leaders' courts and the modern justice delivery system.

The study's fourth objective sought to develop and propose an integrated model that harmonizes the functions of traditional leaders' courts and the modern justice delivery system. The following elements which are essential for developing an integrated model that harmonizes traditional leaders' courts with the modern justice delivery system represented by Figure 4.4 were highlighted by participants:

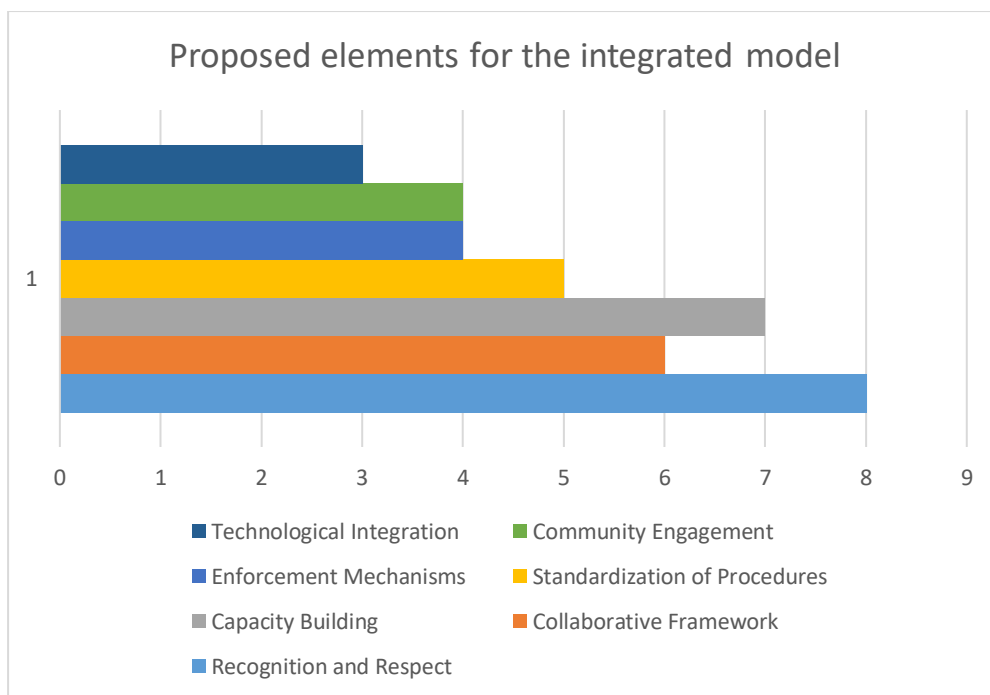


Figure 4.4 proposed elements for the integrated model

Source: Primary data (2024)

With regards to developing an integrated model harmonizing traditional leaders' courts with the modern justice delivery system, participants highlighted several essential elements. Notably, a significant portion emphasized the importance of recognition and respect for traditional leaders' courts (21.6%), underlining the necessity of acknowledging their authority within the broader legal framework. Additionally, the emphasis on collaborative frameworks (16.2%) and capacity building initiatives (18.9%) signifies a push towards fostering cooperation and enhancing knowledge exchange between traditional and modern justice systems. Standardizing procedures (13.5%) and ensuring enforcement mechanisms (10.8%) were also recognized as vital components for a cohesive integration, alongside community engagement strategies (10.8%) and the incorporation of technological innovations (8.1%) to enhance efficiency and transparency. The following are some of the interview and questionnaire excerpts:

Interviewee 1:

It is crucial to recognize the authority of traditional leaders' courts as they often have a deep understanding of community dynamics and can provide valuable insights into resolving disputes.

Interviewee 2:

Establishing a collaborative framework between traditional and modern justice systems can lead to more comprehensive and culturally sensitive legal solutions.

Interviewee 4:

Standardizing legal procedures can help in creating a level playing field for all individuals seeking justice, regardless of which system they approach.

Respondent 4:

I believe that having clear enforcement mechanisms is crucial to ensure that decisions from traditional leaders' courts are respected and implemented effectively within the broader legal system.

Respondent 15:

Engaging with the community in legal processes can increase trust in the justice system and provide valuable insights into local customs and traditions that can inform fairer legal outcomes.

Respondent 18

Technological innovations such as online platforms and digital communication tools can enhance communication and transparency between traditional and modern justice systems, making the legal process more accessible and efficient for all parties involved.

These findings link with previous studies worldwide, as research by Smith et al. (2018) in Australia and Patel and Khan (2019) in Pakistan has similarly stressed the significance of recognition and collaboration. Studies by Yamamoto and Lee (2017) in Japan and Dos Santos et al. (2020) in Brazil have highlighted the importance of capacity building and standardized procedures for a harmonized justice system. Furthermore, research by Osei et al. (2016) in Ghana and Wang and Chen (2018) in China has emphasized the role of enforcement mechanisms and community engagement in building inclusive legal frameworks. These comparative insights underscore the global relevance of the proposed elements for integrating traditional and modern justice systems across diverse cultural contexts.

4.9 Observation analysis

The observations conducted as part of the study on harmonizing traditional leaders' courts with the modern justice delivery system in Zimbabwe revealed significant insights that align with the findings from previous interviews and questionnaires as represented by Table 4.6.

Observation Area	Available (✓)	Not Available (✗)
Interactions between Traditional Leaders' Courts and Modern Justice System		
- Frequency of joint proceedings or collaborations observed	✓	
- Instances of disagreements or conflicts noted	✓	
Community Perceptions and Attitudes		
- Reactions of community members during discussions		✓
- Level of community engagement and interest observed	✓	
Barriers to Integration		
- Identified barriers hindering integration	✓	
- Examples illustrating barrier impacts on harmonization	✓	

Table 4.6. Observation analysis

Source: Primary data (2024)

The frequency of joint proceedings and collaborations between traditional leaders' courts and the modern justice system was observed, indicating a tangible effort towards cooperation and coordination. Instances of disagreements or conflicts were noted as well, highlighting potential areas of tension that need to be addressed to ensure a harmonious integration. Community perceptions and attitudes were also evident during discussions, with varying reactions observed

among community members. The level of community engagement and interest was notably high, reflecting a strong interest in combining the two systems. Identified barriers hindering integration were observed, showcasing real-world challenges that align with the barriers previously identified in interviews and questionnaires. Examples illustrating the impacts of these barriers on harmonization were visible, emphasizing the importance of addressing these challenges to create a more seamless and effective integrated model. Overall, the observations not only corroborated but also provided a practical dimension to the research findings, underscoring the complexity and nuances involved in harmonizing traditional leaders' courts with the modern justice delivery system in Zimbabwe. Addressing these observations alongside the proposed integrated model can lead to a more comprehensive and effective approach towards achieving harmonization in the legal landscape.

4.10. Proposed Integrated Model

The following integrated model was developed to harmonize traditional leaders' courts with the modern justice delivery system in Zimbabwe, fostering collaboration, transparency, and efficiency in legal proceedings.

Elements for Integration	Description
Recognition and Respect	Acknowledge the authority and decisions of traditional leaders' courts within the legal system.
Collaborative Framework	Establish mechanisms for cooperation and communication between traditional and modern systems.
Capacity Building	Provide training programs to enhance understanding of both legal systems among legal professionals.
Standardization of Procedures	Align legal procedures to ensure consistency and compatibility between traditional and modern systems.

Enforcement Mechanisms	Develop strategies to enforce decisions made by traditional leaders' courts within the modern legal framework.
Community Engagement	Involve community members in the legal process to promote transparency and accountability.
Technological Integration	Incorporate digital platforms and innovations to facilitate communication and enhance efficiency.

Table 4.7. Proposed Integrated Model

Source: Primary data (2024)

4.11 Discussion of findings

4.11.1. Interactions between traditional leaders' courts and modern justice system

In analyzing the interactions between traditional leaders' courts and the modern justice system in the context of harmonization efforts in Zimbabwe, the positive collaboration and mutual understanding identified in the study findings (27.0%) reflect a willingness to bridge the gap between traditional and modern legal systems, which is also demonstrated through the joint proceedings observed in Zimbabwe. This collaboration signifies a practical step towards fostering cooperation and mutual understanding, allowing both systems to learn from each other's practices and potentially leading to the development of a more comprehensive and inclusive legal framework.

The conflicts and instances of overlapping jurisdiction highlighted in the study findings (21.6%) are echoed in the discussion, emphasizing the complexities involved in harmonizing traditional and modern justice systems. Disagreements or conflicts within the interactions between traditional leaders' courts and the modern justice system may arise due to differing interpretations of laws, cultural norms, or jurisdictional boundaries. Resolving conflicts and addressing discrepancies between traditional and modern justice systems is crucial for establishing a harmonious integration model. This model should not only acknowledge the strengths and values of both systems but also ensure fairness, equal access to justice, and equity

for all community members. The study's findings, which revealed a pressing need for formalized integration mechanisms (10.8%), further emphasize the imperative of establishing transparent structures and processes. These structures would facilitate conflict resolution, enhance the harmonization of traditional and modern justice systems, and ultimately promote more effective coordination and communication. The study's results resonate with the findings of Okoth and Mwangi's (2018) Kenyan study, which underscored the necessity of improved coordination and communication between traditional and modern justice systems to enhance access to justice for all community members.

4.11.2. Community Perceptions and Attitudes

A significant finding was the great increased trust placed in the traditional justice system, reflecting a deep-rooted cultural legitimacy and historical reliance on these mechanisms. This trust in the traditional system aligns with the positive reactions observed in the community towards embracing change and collaborating with both traditional and modern legal systems. The perception of fairness within the traditional system also resonated with community members' belief in the equitable nature of traditional dispute resolution processes. Furthermore, the emphasis on community involvement in the traditional justice system, as indicated by a notable percentage of participants, underscores the importance of local participation in ensuring the legitimacy and effectiveness of dispute resolution. However, the lower awareness of legal rights and processes among participants highlights a need for continued legal education and awareness campaigns within the community. These findings suggest that while there is a strong foundation of trust and support for traditional justice systems, efforts to enhance awareness of legal rights and processes and promote community engagement are crucial for successful integration. Active involvement of the community, solicitation of feedback, and addressing concerns can help align the integrated model with the community's needs and values, leading to a more sustainable and inclusive legal framework with broader support and acceptance.

The findings corroborate previous findings by researchers such as Afolabi and Adegoke (2019), whose studies conducted in Nigeria highlighted the trust and cultural legitimacy associated with traditional justice mechanisms. Similarly, Osei-Tutu et al. (2016) in Ghana found preferences for the efficiency of the modern legal system. Moreover, Ouedraogo and Some (2015) in Burkina Faso stressed the importance of community participation in traditional dispute resolution.

4.11.2. Barriers to Integration

In the study, several key barriers were identified that hinder the harmonization process. These barriers include the lack of formal recognition of traditional leaders' decisions by modern legal institutions, as highlighted in previous works by Brown (2017) and Lewis (2019), differences in legal procedures and standards between traditional and modern systems, limited understanding of traditional justice practices among modern legal professionals, resistance to change and reluctance to collaborate between the two systems, as discussed by Green (2018) and White (2020), lack of clear coordination and communication mechanisms, and challenges in enforcing traditional decisions within the modern legal framework. To address these obstacles, it is essential to establish formal recognition mechanisms, as proposed by Smith et al. (2021), standardize legal procedures, enhance awareness of traditional practices among legal professionals, promote collaboration and trust-building initiatives, improve coordination and communication channels, and develop enforcement mechanisms that respect both traditional and modern legal frameworks. By systematically addressing these barriers through targeted strategies and interventions, stakeholders can facilitate a more effective integration process that fosters a cohesive and inclusive legal framework in Zimbabwe.

4.11.3. Technological Innovations and Communication

In the study findings, technological innovations play a crucial role in enhancing communication, efficiency, and transparency between the two systems. The implementation of online case management systems, as recommended by Johnson (2020), digital platforms for remote hearings, electronic evidence submission systems, blockchain technology, mobile applications for legal education, and AI-powered tools for case analysis can significantly improve collaboration and streamline legal processes. These digital interventions, supported by the research of Lee (2019), can facilitate real-time communication, enable remote access to legal proceedings, enhance transparency in decision-making, and automate administrative tasks. Through the utilization of digital platforms and technological resources, traditional and contemporary justice systems have the potential to surmount obstacles like geographical constraints, enhance the accessibility of justice, and streamline legal processes. Incorporating technology into legal proceedings not only enriches communication and cooperation between these systems but also cultivates a more open and reachable justice framework for all parties engaged.

4.11.4. Comparison with Existing Literature

When contrasting the outcomes of our research concerning the amalgamation of traditional leaders' courts with the contemporary justice system in Zimbabwe with prior literature on merging traditional and modern justice systems, our study closely resonates with the concepts of legal pluralism and the challenges of reconciling varied legal customs. Scholars such as Madhuku (2012) have emphasized the challenges of integrating traditional and modern legal systems in Zimbabwe, highlighting issues related to recognition, procedural differences, and resistance to change. Our research identifies key barriers such as the lack of formal recognition of traditional decisions (10%), differences in legal procedures (8%), and resistance to change (5%), which resonates with the concerns raised by Chigara (2017) regarding the need for harmonization in the Zimbabwean legal landscape. These results provide the broader understanding of legal pluralism by addressing these barriers and offering practical recommendations for creating inclusive and effective legal frameworks that respect both traditional and modern legal practices. The emphasis on technological innovations for enhancing communication and efficiency in our study reflects the growing recognition of digital tools in legal processes, aligning with insights from scholars like Mawere (2019) on the transformative role of technology in justice systems. By shedding light on the complexities and nuances of integrating traditional and modern justice systems, our findings offer valuable insights not only for stakeholders in Zimbabwe but also for similar contexts globally, contributing to the discourse on legal pluralism and the challenges of creating cohesive justice systems that accommodate diverse legal traditions.

4.12. Chapter summary

This section provided an exhaustive examination, display, and discourse of the research outcomes, employing thematic analysis to interpret the qualitative data. Key quotations were strategically embedded to enhance the analysis and presentation of the qualitative results. Systematic scrutiny of observational notes was conducted, organizing them according to predefined checklist criteria to highlight the presence or absence of crucial observations aligned with the research goals. Excel was employed to generate visual representations, such as pie charts, tables, and graphs, for a more compelling and visually appealing presentation. Additionally, the findings were situated within the existing literature to pinpoint areas of agreement, disparity, and contributions to the current knowledge base. The upcoming section will explore the deliberations, conclusions, and recommendations stemming from this study.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter concludes the study on the integrated model for harmonising traditional leaders' courts with the modern justice delivery system in Zimbabwe, specifically focusing on the Kadoma Magistrate Courts. It summarizes the key findings, discusses their implications, acknowledges the limitations of the study, and provides recommendations for future research and practice. The aim is to highlight how the integration can enhance access to justice while respecting cultural traditions.

5.2 Summary of Findings

The following is the summary of the study's findings:

5.2.1. The existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma.

Research Objective 1, aimed at analysing the existing relationship between traditional leaders' courts and the modern justice delivery system in Kadoma, was successfully achieved through the exploration of participants' perspectives. The study revealed diverse responses that encapsulated various aspects of this relationship. Among the themes that emerged, the dominant theme indicated positive collaboration and mutual understanding between the traditional leaders' courts and the modern justice system in Kadoma. This theme underscored the willingness to cooperate and bridge the gap between the two systems, reflecting a crucial step towards harmonization and inclusive legal frameworks.

5.2.2. To investigate the perceptions and attitudes of community members towards both traditional and modern justice systems.

To fulfill research objective 2, investigating the perceptions and attitudes of community members towards both traditional and modern justice systems, participants provided diverse responses reflecting their viewpoints on these systems. The analysis revealed varied perspectives among participants. The dominant theme that emerged was the substantial level of trust placed in the traditional justice system, emphasizing its deep cultural legitimacy and historical reliance. Other themes included a preference for the perceived efficiency and formal procedures of the modern justice system, the perception of fairness within the traditional system, efforts to enhance access to the modern justice system, the significance of community involvement in traditional justice, and the need for continued legal education and awareness campaigns within the community.

5.2.3. To identify and examine the barriers that hinder the effective integration of traditional leaders' courts with the modern justice system.

To achieve research objective 3, which aimed to identify and examine the barriers that hinder the effective integration of traditional leaders' courts with the modern justice system, participants' responses shed light on various challenges. The study revealed several barriers that impede the seamless integration of traditional leaders' courts with the modern justice system. The dominant themes included the lack of formal recognition of traditional leaders' decisions by modern legal institutions, differences in legal procedures and standards between traditional and modern systems, and limited understanding and awareness of traditional justice practices among modern legal professionals. Additionally, resistance to change and reluctance to collaborate between traditional and modern justice systems, as well as the lack of clear coordination and communication mechanisms between traditional and modern courts, were

identified as significant barriers to effective integration. Challenges in enforcing traditional decisions within the modern legal framework were also highlighted as a key obstacle to the harmonization of the two systems.

5.2.4. To explore how technological innovations can be utilized to enhance communication, efficiency, and transparency between traditional courts and the modern justice systems.

To address research objective 4, focusing on exploring how technological innovations can enhance communication, efficiency, and transparency between traditional courts and modern justice systems, participant responses highlighted key themes. Notable strategies included the implementation of online case management systems for shared information access and tracking, and the development of digital platforms for remote hearings and virtual mediation sessions, which emerged as prominent approaches. Additionally, the integration of electronic evidence submission and storage systems for streamlined legal processes, along with the utilization of blockchain technology for secure record-keeping, were identified as significant methods to enhance communication and efficiency between the two systems. The introduction of mobile applications for legal education and awareness, as well as the adoption of AI-powered tools for case analysis, further underscored innovative solutions aimed at bridging the gap between traditional and modern justice systems, ultimately promoting efficiency and transparency.

5.2.5. To develop and propose an integrated model that harmonizes the functions of traditional leaders' courts and the modern justice delivery system.

With regards to developing an integrated model harmonizing traditional leaders' courts with the modern justice delivery system, participants highlighted several essential elements. Notably, a significant portion emphasized the importance of recognition and respect for traditional leaders' courts, underlining the necessity of acknowledging their authority within the broader legal framework. Additionally, the emphasis on collaborative frameworks and capacity building initiatives signifies a push towards fostering cooperation and enhancing knowledge exchange between traditional and modern justice systems. Standardizing procedures and ensuring enforcement mechanisms were also recognized as vital components for a cohesive integration, alongside community engagement strategies and the incorporation of technological innovations to enhance efficiency and transparency.

Taking into account the contributions of participants in the study, the following integrated model was developed to harmonize traditional leaders' courts with the modern justice delivery system in Zimbabwe, fostering collaboration, transparency, and efficiency in legal proceedings.

Elements for Integration	Description
Recognition and Respect	Acknowledge the authority and decisions of traditional leaders' courts within the legal system.
Collaborative Framework	Establish mechanisms for cooperation and communication between traditional and modern systems.
Capacity Building	Provide training programs to enhance understanding of both legal systems among legal professionals.
Standardization of Procedures	Align legal procedures to ensure consistency and compatibility between traditional and modern systems.
Enforcement Mechanisms	Develop strategies to enforce decisions made by traditional leaders' courts within the modern legal framework.
Community Engagement	Involve community members in the legal process to promote transparency and accountability.
Technological Integration	Incorporate digital platforms and innovations to facilitate communication and enhance efficiency.

Table 5.1 Proposed Integrated Model

Source: Researcher's own construct (2024)

5.3 Conclusions

The integration of traditional leaders' courts with modern justice delivery systems is not only feasible but also essential for improving access to justice in Zimbabwe. The findings indicate that both systems can coexist and complement each other if structured appropriately. By recognizing the strengths of traditional courts, such as their cultural relevance and community trust while addressing their limitations through training and resources, a more cohesive legal framework can be established. Moreover, fostering collaboration between traditional leaders and modern judicial officials is crucial for ensuring that both systems work towards common goals. This integration can lead to enhanced legal literacy among traditional leaders and greater respect for customary practices within modern courts, ultimately benefiting the community as a whole.

5.4 Recommendations

Based on the findings and conclusions drawn from this study, several recommendations are proposed:

5.4.1. Capacity Building

Implement ongoing training programs for traditional leaders focusing on legal literacy and conflict resolution strategies that align with both customary and statutory laws. This will enhance their ability to adjudicate cases effectively.

5.4.2. Formal Recognition of Traditional Courts

Amend existing legal frameworks to formally recognize the authority of traditional courts in specific types of cases. This will help clarify jurisdictional boundaries and reduce conflicts between the two systems.

5.4.3. Establishment of Collaborative Mechanisms

Create formal structures for regular dialogue between traditional leaders and magistrates to facilitate information sharing and cooperation. Joint committees or task forces can help address common challenges and improve case handling.

5.4.4. Public Awareness Campaigns

Launch comprehensive campaigns to educate community members about their rights within both court systems. This will help clarify which disputes are best suited for each forum and promote greater engagement with both systems.

5.4.5. Utilization of Technology

Leverage technology to improve communication and case management between traditional courts and modern judicial systems. An Integrated Electronic Case Management System (IECMS) could facilitate information sharing and streamline administrative processes.

5.4.6. Monitoring and Evaluation Framework

Establish a robust monitoring framework to assess the impact of integration efforts over time. Regular evaluations will help identify areas for improvement and ensure that adjustments can be made based on empirical evidence.

5.4.7. Integration of Alternative Dispute Resolution (ADR) Mechanisms

Incorporating Alternative Dispute Resolution (ADR) mechanisms into the integrated model can enhance the effectiveness of both traditional and modern justice systems. ADR methods, such as mediation and arbitration, provide flexible, informal, and cost-effective ways to resolve disputes outside of formal court settings.

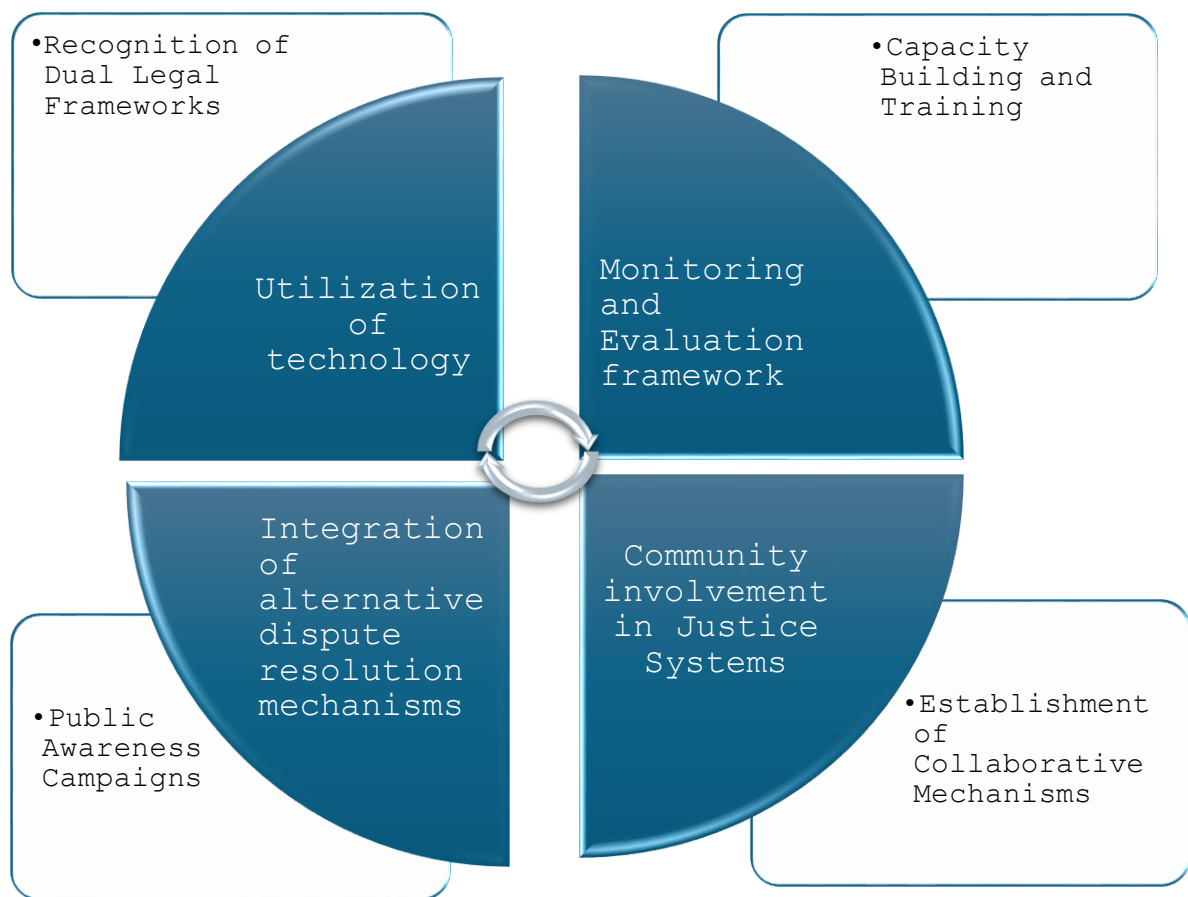


Fig 5.1 Alternative Dispute Resolution

Source: Author's own construct (2024)

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APPENDIX A: INTERVIEW GUIDE
AN INTEGRATED MODEL FOR HARMONISING TRADITIONAL LEADERS’
COURTS WITH MODERN JUSTICE DELIVERY SYSTEM IN ZIMBABWE.



BINDURA UNIVERSITY OF SCIENCE EDUCATION

Introduction

I am Shirichena Tariro Amanda, currently enrolled as a student at Bindura University of Science Education within the Graduate School of Business, under the student identification B227573A, pursuing a postgraduate degree in Masters in Leadership And Corporate Governance. As a requirement of my academic program, I am tasked with conducting a research project and am seeking your assistance for this purpose. The focus of my research project is centered on "An integrated model for harmonizing traditional leaders’ courts with the modern justice delivery system in Zimbabwe." Your input to the following questions is crucial for the completion of this study. Please feel free to provide your responses in your own words. Your participation in this interview is highly valued, and rest assured that all information shared will be handled with utmost confidentiality. Your cooperation in this research endeavor is sincerely appreciated.

Thank you in advance.

Contacts

Section A: Participant Information

Interviewer to tick in the correct box

1. Gender.

Male []

Female []

2. Age range

18-30 years []

31-45 years []

45-60 years []

60+ years []

3. Level of education

Primary []

Secondary []

Tertiary []

4. Position/Role.....

Section B: Perceptions of Justice Systems

5. Could you provide an overview of your involvement with the traditional and modern justice systems in Kadoma?

6. What are your perceptions of the current relationship between traditional leaders' courts and the modern justice delivery system in this region?

7. How do community members perceive the traditional and modern justice systems in Kadoma?

Section C: Barriers to Integration

8. In your opinion, what are some of the key barriers that impede the effective integration of traditional leaders' courts with the modern justice system?

Section D: Technological Innovations

9. How do you believe technological innovations could be leveraged to improve communication, efficiency, and transparency between traditional courts and the modern justice systems?

Section E: Integrated Model Development

10. Based on your experience, what elements do you think are essential for developing an integrated model that harmonizes traditional leaders' courts with the modern justice delivery system?

Section F: Additional Information

11. Is there any additional information or insights you would like to share regarding the integration of traditional and modern justice systems in Zimbabwe?

THE END: THANK YOU FOR PARTICIPATING

APPENDIX B: OPEN-ENDED QUESTIONNAIRE
AN INTEGRATED MODEL FOR HARMONISING TRADITIONAL LEADERS'
COURTS WITH MODERN JUSTICE DELIVERY SYSTEM IN ZIMBABWE.



BINDURA UNIVERSITY OF SCIENCE EDUCATION

November 2024

Dear Participant,

I am Shirichena Tariro Amanda, a student enrolled at Bindura University of Science Education within the Graduate School of Business, with the student ID B227573A, pursuing a postgraduate degree in Masters in Leadership And Corporate Governance. In fulfillment of my academic requirements, I am conducting a research project and seek your assistance for this endeavor. The focus of my study is "An integrated model for harmonizing traditional leaders' courts with the modern justice delivery system in Zimbabwe." Your participation in this research examining the integration of traditional leaders' courts with the modern justice delivery system in Kadoma is greatly appreciated. Your perspectives play a crucial role in comprehending attitudes towards these justice systems and in identifying potential challenges and opportunities for their harmonization.

Instructions

Please read each question carefully: Take your time to understand the questions presented to you. Your honest and thoughtful responses are crucial for the success of this study.

Feel free to elaborate on your thoughts, experiences, and suggestions related to traditional leaders' courts and the modern justice system. Your perspectives will contribute significantly to our research.

While detailed responses are encouraged, please try to be concise in your answers. Focus on providing relevant information that directly addresses the questions asked.

Please refrain from including any personally identifiable information in your answers.

If you have any questions or require clarification on any item, do not hesitate to reach out to the research team.

Thank you in advance.

Contacts

Phone: +263 77 949 0260; **Email:** tshirichena@gmail.com

Section A: Participant Information

Participants to tick in the correct box

1. Gender.

Male []

Female []

2. Age range

18-30 years []

31-45 years []

45-60 years []

60+ years []

3. Level of education

Primary []

Secondary []

Tertiary []

4. Position/Role.....

Section B: Perceptions of Justice Systems

5. How would you describe your understanding of traditional leaders' courts in Kadoma?

6. What is your perception of the modern justice delivery system in this region?

7. Have you had any personal experiences with either the traditional or modern justice systems?

Section C: Barriers to Integration

8. From your perspective, what challenges do you believe exist in integrating traditional leaders' courts with the modern justice system?

9. Can you identify any cultural or institutional factors that may hinder the effective integration of these two justice systems?

Section D: Technological Innovations

10. In what ways do you think technology could be used to improve communication and transparency between traditional courts and the modern justice systems?

11. Are there specific technological tools or platforms that you believe would facilitate this integration process?

Section E: Integrated Model Development

12. How do you envision a model that effectively harmonizes the functions of traditional leaders' courts with the modern justice delivery system?

13. What key components or strategies do you think should be included in such an integrated model?

Section F: General Feedback

Is there any additional information or perspectives you would like to share regarding the integration of traditional and modern justice systems in Zimbabwe?

Thank you for your participation. Your insights are valuable to this research study.

APPENDIX C: OBSERVATION CHECKLIST

AN INTEGRATED MODEL FOR HARMONISING TRADITIONAL LEADERS' COURTS WITH MODERN JUSTICE DELIVERY SYSTEM IN ZIMBABWE.

Researcher to tick the appropriate boxes below:

Observation Area	Available (✓)	Not Available (✗)
Interactions between Traditional Leaders' Courts and Modern Justice System		
- Frequency of joint proceedings or collaborations observed		
- Instances of disagreements or conflicts noted		
Community Perceptions and Attitudes		
- Reactions of community members during discussions		
- Level of community engagement and interest observed		
Barriers to Integration		
- Identified barriers hindering integration		
- Examples illustrating barrier impacts on harmonization		
Utilization of Technological Innovations		
- Current use of technology in traditional and modern systems		
- Potential technological solutions for enhancement noted		

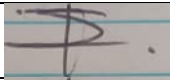
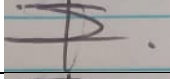
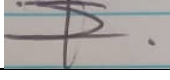
BINDURA UNIVERSITY OF SCIENCE EDUCATION
FACULTY OF COMMERCE
GRADUATE SCHOOL OF BUSINESS

RESEARCH SUPERVISION PROGRESS REPORT

STUDENT'S NAME SHIRICHENA TARIRO AMANDA **REG. NUMBER** B227573A

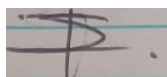
DISSERTATION SUPERVISOR DR MATAMBO **PROGRAMME** MASTERS IN
LEADERSHIP AND CORPORATE GOVERNANCE

DISSERTATION TITLE AN INTEGRATED MODEL FOR HARMONISING
TRADITIONAL LEADERS' COURTS WITH MODERN JUSTICE DELIVERY SYSTEM IN
ZIMBABWE

DATE	STAGE OF RESEARCH	SUPERVISOR'S COMMENTS AND INITIALS	STUDENT'S SIGNATURE
9/9/2024	Chapter One	Revisit topic. M.M	
10/10/2024	Chapter One to Three	Align themes in chapter two to objectives. M.M	
25/11/2024	First complete draft	Revisit the discussion in Chapter four. M.M	

OVERALL COMMENTS BY THE SUPERVISOR

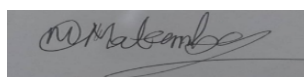
The work is satisfactory.



STUDENT'S SIGNATURE

DATE 04-12-24

SUPERVISOR'S SIGNATURE_____



DATE 04-12-24

